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CHAPTER I: SECRETARY OF STATE

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NOTARY PUBLIC RECORDS

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AUTHORITY: Implemented and authorized by Section 1-104 of the Illinois Notary Public Act [5 ILCS 312].

SOURCE: Adopted at 11 Ill. Reg. 19705, effective December 1, 1987; amended at 13 Ill. Reg. 5197, effective April 1, 1989; amended at 45 Ill. Reg. 6274, effective April 28, 2021; amended at 46 Ill. Reg. _____, effective _____.

SUBPART A: NOTARY PUBLIC RECORDS

Section 176.10 Definitions

For purposes of this Section, all words and terms shall have the same meanings as set forth in 5 ILCS 312/1-104~~the following definitions shall apply:~~

"Act" means the Illinois Notary Public Act [5 ILCS 312].

"Biometric identifier" means a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry. Biometric identifiers do not include writing samples, written signatures, photographs, human biological samples used for valid scientific testing or screening, demographic data, tattoo descriptions, or physical descriptions such as height, weight, hair color, or eye color. Biometric identifiers do not include donated organs, tissues, or parts as defined in the Illinois Anatomical Gift Act or blood or serum stored on behalf of recipients or potential recipients of living or cadaveric transplants and obtained or stored by a federally designated organ procurement agency. Biometric identifiers do not include biological materials regulated under the Genetic Information Privacy Act.

Biometric identifiers do not include information captured from a patient in a health care setting or information collected, used, or stored for health care treatment, payment, or operations under the federal Health Insurance Portability and Accountability Act of 1996. Biometric identifiers do not include an X-ray, roentgen process, computed tomography, MRI, PET scan, mammography, or other image or film of the human anatomy used to diagnose, prognose, or treat an illness or other medical condition or to further validate scientific testing or screening. [740 ILCS 14/10]

"Biometric information" means any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual. Biometric information does not include information derived from items or procedures excluded under the definition of biometric identifiers. [740 ILCS 14/10]

"Notary public" or "notary" means an individual commissioned to perform notarial acts. [5 ILCS 312/1-104]

"Personal information" or "personally identifiable information" does not include publicly available information that is lawfully made available to the general public from federal, State, or local government records. [815 ILCS 530/5]

Unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee to authenticate an individual, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data.

User name or email address, in combination with a password or security question and answer that would permit access to an online account, when either the user name or email address or password or security question and answer are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the data elements have been obtained through the breach of security.

~~"Notary"—a person who is authorized to perform notarial acts such as taking an acknowledgement, administering an oath or affirmation, taking a verification upon oath or affirmation, and witnessing or attesting a signature, as provided in Section 6-101 of the Illinois Notary Public Act [5 ILCS 312].~~

"Secretary" ~~means the~~ The Secretary of State of Illinois.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

SUBPART B: APPOINTMENTS

Section 176.100 Appointment and Reappointment of Notaries Public

- a) Every applicant for an initial appointment or reappointment as a notary public must present satisfactory evidence of the applicant's identity as set forth in the Act at 5 ILCS 312/2-102.
- b) Before issuance of an appointment as a notary public or an electronic notary public, the applicant for appointment must:
 - 1) execute the oath of office as set forth at 5 ILCS 312/2-104;
 - 2) submit a bond as set forth at 5 ILCS 312/2-105; and
 - 3) complete all application requirements found at 5 ILCS 312/2-102(a) and, if applying for an electronic notary commission, at 5 ILCS 312/2-102(c).
- c) Upon a determination that an applicant meets all requirements of the Act and this Part, the Secretary of State will appoint or reappoint the applicant to the office of notary public or electronic notary public, as applicable, and issue a commission certificate.
- d) Reappointment
 - 1) A current notary public may submit an application for reappointment 60 days before the expiration of an existing commission. The date of the new commission will be the date immediately after the expiration date of the current commission.
 - 2) To avoid any gaps between notarial commissions, applications for a notary public should be filed at least 30 days before the expiration of the commission under which the notary public is acting.
- e) Any applicant can request the cancellation of an appointment and the cancellation will become effective upon receipt by the Secretary of State of the notice requesting cancellation of the appointment.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.110 Term of Commission

The term of a notary's commission begins on the date that the notary is commissioned by the Secretary of State and not the date the bond was obtained. The electronic commission, if any, will have the same term of commission as the traditional notary commission (see 5 ILCS 312/2-101(a).

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.120 Requirements to Qualify as a Resident of the State of Illinois

An applicant must be a resident of the State of Illinois pursuant to 5 ILCS 312/2-101 and before applying for a notary commission, unless applying for a nonresident application or appointment pursuant to 5 ILCS 312/2-101 and Section 176.130. A notary public must maintain residency in the State of Illinois during the term of the appointment and must immediately resign the commission if the notary public's residency in Illinois ends.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.130 Nonresident Application for Appointment

The form in Illustration A must be used by an applicant for notary public who resides in a state bordering Illinois whose place of work or business is within a county in Illinois, but only if the laws of the applicant's state of residence authorize Illinois residents to be appointed and commissioned as notaries public in that state (see 5 ILCS 312/2-101).

(Source: Added at 46 Ill. Reg. _____, effective _____)

SUBPART C: COURSE OF STUDY AND EXAMINATION

Section 176.200 Definitions

Unless otherwise noted, the following definitions apply to this Subpart only:

"Applicant" means a person or entity applying for certification as a notary public course of study provider and examination provider.

"Certification" means a document issued by the Department that authorizes the entity named in a document to offer a live classroom or webcast course of study and examination required by 5 ILCS 312/2-101.5.

"Consumer information" means the name, address, date of birth, email address and payment information, including credit card and bank account numbers or electronic payment data of students who are enrolled in or have completed a notary public course of study and examination.

“Department” means the Index Department of the Office of the Secretary of State.

“Instructor” means the person charged with providing instruction to notary applicants.

"Live certified proctors" means a person or persons who monitor students in real-time in a live classroom setting.

"Multimedia" means a method or methods of technology meant to convey information including, but not limited to animation, graphics, and video displays.

“Provider” means an entity or person certified by the Secretary of State to provide the notary public course of study and examination required by 5 ILCS 312/2-101.5.

"Shareware" means copyrighted software for which the copyright owner sets certain conditions for the software's distribution and use, including requiring payment to the copyright owner after a person who has secured a copy of the software decides to use the software.

"Webcast" means either a live synchronous online or interactive asynchronous course of study and examination as required by 5 ILCS 312/2-101.5

"Web video conference proctor" means a person or persons who monitor students in real-time during a video conference and/or examination.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.205 Course of Study and Examination

- a) Before July 1, 2023, applicants seeking a commission as either a notary public or an electronic notary public must first successfully complete a course of study and acquire a passing score on the examination, as required by 5 ILCS 312/2-101.5. The successful completion of a course of study will remain valid for 2 years from the date of the examination.
- b) The Secretary of State may authorize the provision of a course of study for the mandatory training of notaries public and electronic notaries public by qualified third parties subject to this Subpart.
- c) To be accepted by the Secretary, the course of study must be taught by a provider or instructor certified by the Secretary.

- d) The course of study and examination must consist of the instruction and questions identified in Section 176.225.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.210 Course of Study and Examination Provider Certification Required

- a) No person, firm, association, partnership or corporation may operate as a provider or engage in the business of providing a notary public course of study and examination unless the provider holds a certification issued by the Secretary.
- b) No provider may remain in operation if its certification to operate as a provider is suspended, revoked, canceled, or not renewed.
- c) The Secretary must provide contact information of each provider on its official website (<https://www.ilsos.gov/departments/index/notary/home.html>).
- d) Every officer, owner, director, partner, and manager of a provider is subject to the requirements of this Subpart C.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.215 Applicants' and Providers' Requirements for Notary Public Course of Study and Examination

- a) The Secretary will deny, suspend, or revoke a provider certification when:
- 1) The Secretary determines that the applicant/provider is not of good moral character. In determining good moral character, the Department is not limited to, but may consider the following:
- A) Whether the applicant/provider has been convicted of a felony or a misdemeanor. The Department will consider:
- i) The relationship of any crime of which the applicant/provider has been convicted to the ability to operate a notary public course of study and examination;
- ii) The length of time that has elapsed since the applicant's/provider's last criminal conviction;

iii) Whether the applicant/provider successfully completed any sentence imposed with the convictions;

iv) Whether the applicant/provider has multiple convictions for felony or misdemeanor offenses.

B) The applicant/provider has been indicted, formally charged, or otherwise charged with a felony or a misdemeanor. In this case, the certification will be temporarily either denied or revoked.

i) If the applicant/provider whose certification has been denied or revoked under this Part is adjudicated “guilty” by the court, the denial or revocation previously entered on the person’s record in accordance with this Section will stand. This action does not preclude further suspension or revocation of the certification under another Section of this Subpart or the Act.

ii) If the applicant/provider whose certification has been denied or revoked under this Part is adjudicated “not guilty” by the court, the denial or cancellation previously entered on the person’s record in accordance with this Section will be rescinded. This action does not preclude further suspension or revocation of the certification under another Section of this Subpart C or the Act.

iii) If the applicant/provider whose certification has been denied or revoked under this Part is granted a disposition of “court supervision” by the court, the denial or revocation previously entered on the person’s record in accordance with this Section will be rescinded. This action does not preclude further suspension or revocation of the certification under another Section of this Subpart C or the Act.

2) Any owner or employee of the provider who, while interacting with students:

A) Engaged in an activity that puts the student in danger; or

B) Engaged in reckless behavior; or

C) Failed to maintain a professional relationship with students at all times.

3) The applicant/provider fails to file and maintain with the Department a continuous surety bond in the principal sum of \$50,000, underwritten by a company authorized to do business in the State of Illinois, for the protection of the contractual rights of students. However, the aggregate liability of the surety for all breaches of the condition of the bond in no event shall exceed the principal sum of \$50,000. The surety on any bond may cancel the bond on giving 30 days' notice in writing to the Secretary of State and shall be relieved of liability for any breach of any conditions of the bond that occurs after the effective date of cancellation. All bonds filed pursuant to this provision shall be in substantially the same form as Illustration B:

4) The Secretary is not satisfied that the applicant/provider has established adequate procedures for verifying the identity of the student taking the course and ensuring that the student completes the course in its entirety;

5) The applicant fails to submit a copy of its course content, conforming with this Section, to the Department for review and approval, including the questions and answers on the quizzes and final examination;

6) The provider fails to immediately report to the Department any unauthorized access to consumer information, including computer breaches, or fails to comply with the Illinois Personal Information Protection Act [815 ILCS 530];

7) The applicant/provider is an Illinois corporation that is not in good standing with the Illinois Secretary of State, Department of Business Services;

8) The applicant/provider is a foreign corporation that is not authorized to transact business in Illinois, as evidenced by submission of an Application for Authority to Transact Business in Illinois and acceptance of that application by the Illinois Secretary of State, Department of Business Services;

9) The applicant/provider is a foreign limited liability company that is not authorized to transact business in Illinois, as evidenced by submission of an Application for Admission to Transact Business and acceptance of that application by the Illinois Secretary of State, Department of Business Services;

- 10) The owner or any employee of the applicant/provider is a current salaried or contractual employee of the Secretary of State;
 - 11) An applicant/provider, owner or manager engages in fraudulent activity;
 - 12) An applicant, owner, or employee has been found to have engaged in fraudulent activity within the 5 years before applying for certification;
 - 13) An applicant/provider or owner owes outstanding fees to the Secretary of State in either a personal, official, or professional capacity;
 - 14) An applicant/provider sells or discloses any consumer information or fails to post a statement indicating consumer information will not be sold or disclosed on its website;
 - 15) An applicant/provider requests the Social Security number of students;
 - 16) The provider fails to provide or maintain a toll-free customer service hotline that is answered, at a minimum, between the hours of 9:00am and 5:00pm Central Standard Time;
 - 17) The applicant/provider fails to supply the Department with a detailed description of each position involved in every facet of the notary public course of study and examination, with contact information for each employee. If the course is taught in person, the provider must report any staffing changes to the Department within 5 business days after the change. If the course is taught online, the provider must report any change in the person responsible for creating and managing the online course to the Department within 5 business days;
 - 18) The provider uses voice recognition as a method of verification, unless the provider furnishes a toll-free number for providing the required voice exemplars.
- b) Only one provider certification will be issued to any one individual, group, association, partnership or corporation, and the Department will deny an application for certification as a course provider if any of the applicants are unqualified, are already certified or have applied as another provider.
- c) Course providers must comply with the following requirements:

- 1) If the course provider seeks certification for an in-person course of study at the course provider's physical location, the location of the course provider's premises and facilities must be adequate, safe, and sanitary and shall comply with all relevant statutory provisions, rules, regulations and local ordinances pertaining to fire, health, safety and sanitation.
 - 2) The equipment, supplies, and instructional materials of the course provider must be satisfactory and adequate in type, quality, and amount, and shall be suitable for use in administering the course of instruction. They must also comply with all relevant statutory provisions and local ordinances pertaining to fire, health, safety, and sanitation.
- d) Before being certified, each applicant must provide the Department with all necessary information to allow the Department to participate in a complete course, without fee to the Department, so that the Department may determine if the course complies with this Part. If the proposed course content meets the requirements of this Subpart, it will be approved by the Department.
- e) These requirements are not intended to limit the way course providers may offer courses of study or the location at which course providers are able to offer courses of study. Live webinars with real-time instruction and courses provided at an employer or business location with an in-person instructor may also be considered for certification by the Secretary of State.
- f) When determining whether to approve a submitted course of study, the Department shall consider and review the following:
- 1) The course lesson plan and syllabus or storyboard.
 - 2) A detailed description of how the final examination will be administered. The entity administering the final exam may use either a paper test or an online format. The entity must notify the Department which format they will be using. A notary public course of education provider must offer multiple curriculum tests so that there is not one uniform test in circulation.
 - 3) The process for grading students.
 - 4) The manner in which the course educates students regarding the notary commission application process, forms, and procedures.
 - 5) A list of course instructors, if applicable.

- 6) A description of the interaction capabilities between the instructor and the students in an electronic environment, if the course of study and examination are to be conducted electronically.
 - 7) Actual time spent by students and instructors online and in class.
 - 8) A video, CD, or DVD of the course.
- f) Upon receipt of a properly executed application for certification, the Department will investigate the qualifications of the applicant to determine whether the application should be granted or denied.
- g) Certifications may only be issued by the Department.
- h) Providers must follow the course content submitted to and approved by the Department at the time of application for certification.
- i) If a provider wishes to substantially change the course content, a copy of the proposed revisions must be sent to the Department for approval. The provider shall also provide the Department all necessary information to allow the Department to participate in a complete course as revised without fee to the Department. After review, the Department will send a letter to the provider either approving or rejecting the proposed changes.
- j) An entity whose certification has been denied, suspended or revoked pursuant to this Subpart may request an administrative hearing pursuant to Subpart K.
- k) All monies required to be remitted by a provider to the Department must be submitted in United States currency.
- l) A certificate issued to a course of study and examination provider will be valid for one year. The course provider must submit the course of study to the Department for approval annually. Department approval of the course of study will extend from July 1 through June 30. A course provider desiring to be approved must submit an application for course approval renewal on or before April 1 of each year. The application shall be accompanied by the following information:
- 1) All information required as part of an initial application for certification as set forth in Sections 176.205, 176.210, 176.215, 176.255, 176.235 , and 176.240; and
 - 2) Any supplemental information necessary to bring information on the course provider up to date.

- n) A provider may elect not to provide training that includes electronic notarization only if the application of the provider clearly and conspicuously states that the course submitted for approval will not include training with response to electronic notarizations and the provider includes a statement on its website that its training will not include an electronic notarizations and will not suffice for an electronic notarial commission application.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.220 Notary Public Course of Study and Examination – Provider Names

- a) No provider may adopt, use or conduct any business under a name that is not distinguishable upon the records of the Department from a name used by another provider, as distinguishable is defined in 14 Ill. Adm. Code 150.440.
- b) No provider may incorporate under its own or another name unless the name of the proposed corporation is submitted by the Department of Business Services of the Office of the Secretary of State for a final determination of the availability of the name, along with the fee required by Section 15.10 of the Business Corporation Act of 1983 [805 ILCS 5/15.10].
- c) No provider's name may contain, separate and apart from any other word or abbreviation in the name, the word “corporation,” “company,” “incorporated,” or “limited,” or an abbreviation of one of these words, unless so licensed by the Secretary of State.
- d) No provider may operate under an assumed name, unless the provider complies with all provisions of the Assumed Business Name Act. [805 ILCS 405]
- e) No provider may change its name unless 30 days' prior written notice is given to the Department stating the change of name. Upon receipt of a notice of name change, the Department will, without an application fee, require the provider to complete an amended application for certification in the form and manner prescribed for original applicants.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.225 Notary Public Course of Study and Examination – Required Instruction and Content

- a) Providers must provide 3 hours of notary public instruction in accordance with the course content set forth in subsection (e) and must meet the following requirements:
- 1) A minimum of 180 minutes of instruction as defined in subsection (b);
 - 2) Each student must complete the instruction within 30 days after beginning instruction;
 - 3) The material presented in the course must be edited for grammar, punctuation, and spelling and be of such quality that it does not detract from its subject matter;
 - 4) Advertisement of goods and services or any material not related to the topic being presented must not appear during instructional time. Material not related to the topic being presented shall not appear during instructional time; and
 - 5) An online course must be designed and well suited for students with minimal keyboarding or computer skills.
- b) To demonstrate that the course contains a minimum of 180 minutes of instruction, the following calculation shall be used:
- 1) For written material that is read by the student, count the total number of words in the written section of the course. Divide the word count by 180, the average number of words that a typical student reads per minute. The result equals the time associated with the material for the written sections;
 - 2) For multimedia presentations, including simulators, video and animation, calculate the total amount of time it takes for all multimedia presentations to play, which must not exceed 120 minutes;
 - 3) Assign one minute for each chart or graph; and
 - 4) The total minutes of instruction in the written material, the multimedia presentations, and the charts and graphs altogether must equal or exceed 180 minutes for the course to meet the minimum content time required.
- c) Instead of the calculation method set forth in subsection (b), a provider may submit an alternate methodology or otherwise demonstrate that the course contains a minimum of 180 minutes of instruction.

- d) Materials. All material appearing on the screen to be read aloud by the student shall also be spoken aloud to the student unless this function is manually disabled by the student.
- e) Substance required. The educational objectives of a notary public course of study must include, but not be limited to:
 - 1) Promoting respect for and encouraging observance of the duties and requirements of a notary public as set forth in the Act;
 - 2) Identifying potential damages and economic losses that could result from notarial misconduct;
 - 3) Motivating continuing development of notarial competencies through education, including, but not limited to adherence with the Act; and
 - 4) Providing knowledge of the Act, this Part, and other laws related to or affecting notarial work.
- f) Providers must monitor the Illinois General Assembly and update their course content to include any new amendments to the Act. This update shall be submitted to the Department for review and approval within 60 days after the effective date of the law change.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.230 Notary Public Course of Study and Examination Student Contracts

- a) Before instruction begins and any fees are collected, each student shall be informed of the amount of all fees or charges relative to the notary public course of study, including but not limited to enrollment, tuition, equipment, textbooks, and instruction manuals. The provider shall not require mandatory purchase of the provider's proprietary software or shareware, unless this fee was expressly included in the disclosure of fees made prior to the enrollment in the course.
- b) If a provider requires the installation of a free or trial version of its proprietary software, it must be bundled with an uninstallation shortcut that will completely remove that software and any associated registry entries.
- f) Any provider that subcontracts any portion of the course of study or examination must notify the Index Department prior to entering into the subcontract relationship.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.235 Course Provider Verification of Student Identity and Course Completion

a) Before being certified, providers must submit procedures to the Secretary of State for verifying the identity of the student taking the course, which may include, but are not limited to, the following:

1) If the course is to be taken in person, an examination of a government-issued photo identification card, including an Illinois driver's license or Illinois Identification Card;

2) If the course is to be taken online:

A) Web video recording accompanied by an examination of the student's government-issued photo identification card;

B) Dynamic knowledge-based authentication. Sample challenge questions must be submitted to the Department as part of provider certification; or

C) Web video conference proctor with screen monitoring with live certified proctors.

b) If the method of verification is challenge questions, the student must be asked a minimum of two questions per hour, during each hour of the course, during random intervals. The answer to the verification challenge question must be verifiable by the course provider or a third party. Students shall have only 60 seconds to respond. Students who fail to respond to the question or who fail to respond within the specified time period must be returned to the place in the course where the student last successfully passed a verification. A student who, for a second time, fails to respond to a challenge question or who fails to respond within the specified time period will be considered to have failed the course. If a student answers a question incorrectly, another challenge question must be asked. If the student correctly answers the challenge question, the student may proceed with the course. If the student incorrectly answers a third challenge question, the student is considered to have failed a course.

c) Providers must incorporate a course content validation process that verifies student participation, comprehension of course material, and course completion, including the following:

- 1) Built-in timers to ensure that 180 minutes of instruction have been viewed and completed by the student. Timers must prevent the student from scrolling, skipping or advancing through the course without reading the material and must not allow the student to take section quizzes or the final examination without viewing or reading the course content. If a student attempts to take a quiz or the final examination without having spent the minimum time required for a single section or the course, the student must be returned to the place in the course where the student last spent the minimum time required.
- 2) At least one course validation question must be asked following each multimedia clip that exceeds 60 seconds.
- 3) Students must complete a final examination at the end of the course, which shall consist of 50 questions from a test bank of a minimum of 100 questions. Questions may be multiple-choice, true/false or a combination of both, but in no event may more than one-half of the questions be true/false. Questions must be randomized and of such difficulty that the answers may not be easily determined without having participated in the entire course.
- 4) A student must score at least 85% on the final examination. If a student scores less than 85%, the student must be re-tested using different questions from the test bank. The student is not required to repeat the course but shall be allowed to review the course before retaking the examination. The examination may be retaken at any time by agreement between the student and the course provider. If the student fails the comprehensive final examination 3 times, the student has failed the course.
- 5) A student that fails the examination may choose to take a different course before retaking the examination.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.240 Notary Public Course of Study – Provider Website and Security Requirements

- a) Each provider’s website must display the following information on its homepage:
 - 1) the provider’s Secretary of State certification number; and

2) a statement that complaints regarding the provider may be directed to the Secretary of State's Index Department. Contact information for the Index Department must be included with the statement.

b) A provider offering an online course must offer the course from a single domain. The course may accept students that are redirected to the online course domain, as long as the provider's certification number appears on the source that redirects the students to the online course domain. The student must be redirected to a webpage that clearly identifies the certified provider offering the course before the student begins the registration process, supplies any information, or pays for the course.

c) A provider offering an online course may choose an existing webinar system or create its own webinar system.

d) Providers are prohibited from selling or disclosing any consumer information provided by the student. A statement to that effect must be posted on the provider's website in a conspicuous location.

e) Providers are prohibited from requesting the Social Security numbers of students.

f) Providers must take all necessary measures to prevent unauthorized access to consumer information, either in printed or electronic form, and upon discovery, shall immediately report any unauthorized access to the Department.

g) Provider servers must be located in a secure location, with access restricted to only those employees or persons who have a need to access the server.

h) Providers may use a third-party payment processing merchant for processing payments only if the provider's contract clearly indicates to the student, before payment is made, the name of the third-party payment processing merchant to be used and the fee, if any, charged by the payment processor.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.245 Enforcement

a) Duty to respond to the Secretary of State's written request. Any person or entity providing courses of study or examinations must respond in writing within 10 business days of receiving a written request from the Secretary of State for any information relating to a complaint pertaining to a course of study or examination.

- b) Onsite inspections. Approved providers must permit the Secretary of State or the Secretary's designee, at the Secretary's sole option, to attend any approved course of instruction, whether in person or online, without prior notice at no charge to observe, monitor, audit, and investigate.
- c) Complaints. Any person may file a complaint against any provider with the Secretary of State alleging a violation of the Act or this Part. The person must submit a written and dated complaint to:.

Secretary of State Index Department
111 E. Monroe Street
Springfield, IL 62756

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.250 Hearings

- a) Before denying the certification of an applicant or existing provider, the Department shall send written notice to the provider. If a formal hearing is requested in writing in accordance with 92 Ill. Adm. Code 1001.Subpart A, the denial shall stand pending the outcome of the hearing. The denial of a certification will contain the specific reasons why the certification has been denied. The notice of denial contains information about the availability and timeline of an appeal and where rules governing the appeal can be found.
- b) Before suspending or revoking a provider's certification, the Secretary of State Department of Administrative Hearings will conduct a hearing in accordance with 92 Ill. Adm. Code 1001.Subpart A, in which the Department will present competent evidence to establish violations of any regulations or laws governing providers and seek the appropriate sanctions in accordance with Subpart K. Sanctions for violation of the Act or this Part may include, but are not limited to, denial, suspension, or revocation.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.255 Denial, Suspension and Revocation of a Notary Public Course of Study and Examination Provider Certification

- a) The Secretary of State may deny, suspend or revoke a certification:
- 1) For any violation of the Act;
 - 2) For any violation of this Part;

- 3) If the provider's certification or licensure to provide any type of notary public course of study and examination has been denied, suspended or revoked by any other state or jurisdiction;
 - 4) For misrepresentation of a notary public's duties and authority under Illinois law;
 - 5) For deviation from the lesson plan for an approved course of instruction;
 - 6) For making representations that the Secretary of State endorses, recommends, or mandates use of any of the vendor's products, goods, or services;
 - 7) For conviction of any entity, person or principal closely associated with any provider for any felony or misdemeanor involving fraudulent activity;
 - 8) For engaging in any fraudulent activity or deceptive business practices; or
 - 9) For failure to timely respond to the Secretary of State's request for communication or otherwise cooperate with an investigation.
- b) The Department may revoke the certification of a course of study when the Department finds that a course of study or a course provider has failed to comply with the Act or this Part. An affected course provider may appeal the Department's decision to revoke the certification of the provider's course of study through an administrative hearing with the Secretary of State Department of Administrative Hearings pursuant to Subpart K.
- c) An affected course provider may appeal the Department's decision to revoke the approval of the provider's course of study through an administrative hearing with the Secretary of State Department of Administrative Hearings.

(Source: Added at 46 Ill. Reg. _____, effective _____)

SUBPART D: NOTARY PUBLIC APPLICATION REQUIREMENTS

Section 176.300 Application for Notary and Electronic Notary Commissions

- a) Applications for a traditional notary public commission. All applicants applying for a traditional notary public application shall use the application form prescribed by the Secretary of State and shall include, at a minimum, the information required as set forth in 5 ILCS 312/2-102.

- 939
- 940 **b)** Remote notarization. Any notary appointed under subsection (a) shall have the
- 941 authority to conduct remote notarizations. [5 ILCS 312/2-102(b)].
- 942
- 943 **c)** Application for electronic notary public commission. An application for an
- 944 electronic notary public commission must be filed with the Secretary of State as
- 945 set forth in this Subpart D [5 ILCS 312/2-102(c)]. In addition to the information
- 946 required by 5 ILCS 312/2-102(c), an applicant for an electronic notarial
- 947 commission must provide the following:
- 948
- 949 **1)** The notary public commission number assigned to the person by the
- 950 Secretary of State;
- 951
- 952 **2)** The name of all electronic notarization system providers that the applicant
- 953 intends to use to perform electronic notarial acts;
- 954
- 955 **3)** A copy of the electronic seal and electronic signature of the person that is:
- 956
- 957 **A)** an exact representation of the handwritten signature of the person
- 958 on file with the Secretary of State; and
- 959
- 960 **B)** in a format that can be read without additional software and be
- 961 compared for authentication purposes to the person's handwritten
- 962 signature on file with the Secretary.
- 963
- 964 **4)** A statement certifying that the applicant:
- 965
- 966 **A)** Will comply with the standards set forth by Section 176.835
- 967 relating to identity proofing and credential analysis;
- 968
- 969 **B)** Will use a third-party provider who has been certified to act as an
- 970 electronic notarization system provider in the State of Illinois by
- 971 the Secretary; and
- 972
- 973 **C)** Will, upon request by the Secretary, promptly provide any
- 974 necessary instructions or techniques supplied by a provider that
- 975 will allow the electronic notary public's digital certification and
- 976 seal to be read and authenticated.
- 977
- 978 **5)** A disclosure of all disciplinary actions, convictions, or administrative
- 979 actions taken against the applicant.
- 980

- 981 6) A certificate or other proof of successful completion of the course of study
 982 on electronic notarization provided pursuant to 5 ILCS 312/2-101.5, which
 983 indicates successful completion of the course within the 2 years preceding
 984 the submission of the application for an electronic notary public
 985 commission; and
 986
 987 7) A statement certifying that the person will comply with the applicable
 988 provisions of the Act, including Article VI-A.
 989
 990 d) A person may not perform an electronic notarial act unless:
 991
 992 1) The Secretary has approved the applicant's application for an electronic
 993 notary public commission; and
 994
 995 2) The Secretary has approved the registration of the proposed electronic
 996 notarization system provider.
 997
 998 e) Incomplete applications. If an application for appointment as a notary public or
 999 electronic notary public is incomplete, the Secretary of State will retain the
 1000 application for at least 1 year from the date of receipt of the application. If the
 1001 applicant does not complete the application within 1 year from the date of receipt
 1002 of the application, the Secretary of State may deny the application and notice of
 1003 denial will be mailed to the notary public.
 1004
 1005 f) Assignment of Commission Number.
 1006
 1007 1) The Secretary of State will assign a unique commission number to each
 1008 original certificate of appointment. The commission number, which will
 1009 be used to identify the notary public whose name appears on the certificate
 1010 of appointment, must remain assigned to the notary public throughout the
 1011 period of the appointment and must be included on each duplicate or
 1012 amended certificate of appointment issued to the notary public by the
 1013 Secretary of State.
 1014
 1015 2) If a notary public applies for a subsequent period of appointment, a new
 1016 number must be assigned.
 1017
 1018 3) A notary public that is also commissioned as an electronic notary public
 1019 will have the same commission number for both commissions.
 1020
 1021 g) After an application for an electronic notarial commission has been approved, the
 1022 electronic notary public will be required to notify the Office of the Secretary of

State, on a form designated by the Secretary, if the electronic notary public elects to add any other electronic notary system provider.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.310 Approval of Application, Authority of Secretary of State to Deny Commission, and Effective Date of Commission

a) If an applicant who is applying for an electronic notary commission satisfies all of the requirements for such a registration pursuant to this Part and 5 ILCS 312/2-102, the Secretary of State will:

- 1) Approve the application for a commission as an electronic notary;
- 2) Update the processing system maintained by the Office of the Secretary of State to indicate the commission of the person as an electronic notary; and
- 3) Notify the person that he or she has been commissioned as an electronic notary.

b) If a person applying for an electronic notary public commission does not meet all of the requirements for application set forth in this Part and 5 ILCS 312/2-101, the Secretary of State will deny commissioning the person as an electronic notary public. If the Secretary of State denies a commission as an electronic notary pursuant to this subsection, the Secretary of State will notify that person of that refusal.

c) The commission of a person as an electronic notary becomes effective at the time the processing system maintained by the Secretary of State has been updated pursuant to subsection (a)(2) to indicate such a commission.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.320 Appointment Fee

a) No commission will be issued until the \$10 fee required by 5 ILCS 312/2-103 has been paid in full.

b) Authority of the Secretary of State to deny or revoke commission if payment is dishonored or stopped. If any method of payment submitted by an applicant to the Secretary of State pursuant to 5 ILCS 312/2-103 is returned to the Secretary of State or otherwise dishonored upon presentation of payment because the application has insufficient money or credit, or because the person stopped

payment on the method of payment, the Secretary of State may immediately and without a hearing deny to commission the applicant as a notary public or immediately revoke the applicant's commission if the commission has already been granted. An applicant whose commission is denied or revoked pursuant to this subsection (b) must resubmit an application for commission as a notary public. A notary public whose commission is revoked pursuant to this subsection (b) must reapply for commission.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.330 Oath

- a) A notary public must file an oath of office with the Secretary of State, affirming the notary's intent to follow the laws and constitutions of the United States of America and the State of Illinois.
- b) The legal name on the applicant's oath of office must exactly match the applicant's driver's license or state identification card and the name on the notary application. Unless proven otherwise, the name shall consist of the applicant's first personal name (first name), middle name or additional name or names, if applicable, and surname (family or last name).

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.340 Bond

- a) Applicants for a traditional or electronic notary commission are required to indicate at the time of application whether the applicant will perform only traditional in-person notarizations or remote notarizations.
- b) An applicant for a notarial commission or electronic notarial commission must purchase a bond in the following amounts:
 - 1) Applicants seeking to perform only traditional, in-person notarizations – \$5,000.
 - 2) Applicants seeking to perform traditional, in-person notarizations and remote or electronic notarizations – \$25,000 in addition to the bond required by (b)(1) of this section for traditional notaries, or a combined bond of \$30,000, pursuant to 5 ILCS 312/2-105(b).
- c) A copy of the original bond must be filed with the Illinois Secretary of State Index Department.

- d) The bond shall contain, on its face, the oath of office for the notary public as specified in 5 ILCS 312/2-104. The applicant must endorse the oath on the face of the bond, immediately below the oath, by signing the applicant's name under which the person has applied to be commissioned as a notary public or electronic notary public and exactly as it appears on the notary application form filed with the Secretary of State's Office.
- e) In making a claim against a combined bond, as described in (b)(2), a claimant will only be entitled to see either \$5,000 of the bond if the notarization at question was a traditional, in-person, physical notarization or \$25,000 if the notarization was an electronic or remote notarization. In no event may anyone claim be eligible for payment of the entirety of the \$30,000 bond.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.350 Reappointment

- a) A current notary public and a current electronic notary public may submit an application for reappointment 90 days before an existing commission expires. The date of the new commission will be the date immediately after the expiration date of the current commission.
- b) To prevent a gap between commissions, a notary public and electronic notary public must apply for reappointment at least 60 days before the commission under which the notary public is currently acting expires.

(Source: Added at 46 Ill. Reg. _____, effective _____)

SUBPART E: NOTARY PUBLIC REMITTANCE AGENT

Section 176.400 Definitions

For purposes of this Subpart, the following definitions shall apply:

"Applicant" means a person requesting that a remittance agent commission be issued in the applicant's name or the name of a business entity the applicant controls.

"Department" means Index Department within the Office of the Secretary of State.

“Financially sound” means solvent and able to pay expenses and debts as due, as evidenced by the surety bond obtained pursuant to 5 ILCS 312/2-105.

“Fraudulent activity” means any action calculated to deceive, whether it be a single act or combination of circumstances, whether the suppression of the truth or the suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or by silence, as the action or inaction applies to the remittance agent's obligations set forth by 5 ILCS 312/2-107.

“Good business integrity” – means soundness or good moral principal and character in business dealings as evidenced by the surety bond or bonds obtained pursuant to 5 ILCS 312/2-105.

“Immediate family” means spouse, offspring, sibling, or parent.

“Licensee” means a licensed remittance agent.

"Remittance Agent" means any person who holds himself or herself out to the public as being engaged in or who engages in accept notary application fees or applications to the Secretary of State, whether the person renders any other service in connection with the making of any such remittance or is engaged in any other endeavor. The term "remittance agent" also includes any person who holds himself or herself out to the public as being engaged in or who engages in accepting money for consulting or advising the public on matters concerning the applications for Illinois notarial commissions. The term "remittance agent" does not include any licensed attorney providing advice to clients or the general public.

“Revocation” means the termination by formal action of a person’s license to operate as a remittance agent.

“Secretary” means the Illinois Secretary of State.

“Suspension” means the temporary withdrawal by formal action by the Secretary of a person’s license to operate as a remittance agent for a period of time determined by the Secretary.

“Transaction” means an application for a notary commission any supporting documents and fees for remittance to the Department.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.410 Application for Remittance Agent License and Renewal

- a) If a person wishes to become a remittance agent, an application and bond pursuant to 5 ILCS 312/2-107 shall be filed with the Office of the Secretary pursuant to subsection (e).
- b) The notarized application shall contain the following information:
- 1) The previous year's license number if the person is currently licensed as a remittance agent;
 - 2) The name of the business;
 - 3) The location of the business. A licensee shall not do business at a location not set forth in the license and must maintain a physical location in the State of Illinois;
 - 4) The applicant's home address, home telephone number, business telephone number, email address and website, if any;
 - 5) The applicant's business, occupation or profession;
 - 6) The total amount of cash, checks, electronic payments or money orders made payable to the remitter received for remittance to the State in the highest 15-day period in the preceding year if the person is currently licensed;
 - 7) Whether the applicant, a member of the applicant's immediate family, or any employee of the applicant is an employee of the Secretary of State;
 - 8) Whether the applicant has ever been involved in civil or criminal litigation including bankruptcy proceedings, and if so, the type of litigation, the date and suit or charge, the court in which the matter was heard, the style or caption of the case, the disposition of the matter, and if the judgment has been satisfied.
 - 9) A list of the employees and an authorization to conduct a background check of each employee.
- c) A surety bond shall be posted for each location where the applicant intends to do business as a remittance agent. Each bond shall be for \$5,000 or the amount of cash, checks, electronic payments or money orders made payable to the remitter received for remittance to the Department during the highest 15-day period in the year preceding the year for which the license is applied, whichever is greater. The bond shall be issued by a bonding or insurance company authorized to do

business in Illinois. The Department shall use a list issued by the Department of Insurance to determine if the bonding or insurance company is authorized to issue the bond.

d) A remittance agent wishing to renew the agent's license shall submit the material required by this Section to the Department between September 1 and December 31 of the year before the new license will become effective.

e) All remittance agent license applications and corresponding materials should be submitted to:

Office of the Secretary of State
Department of Index
111 E. Monroe Street
Springfield, IL 62756

f) The Department will make available the application form to any person who requests one. Only the Department's form will be accepted to apply for a license to operate as a remittance agent.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.420 Denial of Application for Remittance Agent's License

a) Pursuant to 5 ILCS 312/2-107, the Department shall deny an application for a remittance agent's license unless the applicant complies with that Section. If a person's application is denied, the person shall be sent the application submitted and a notice of the denial by certified mail within 30 days after the date the application was submitted. The notice shall contain the reason for the denial and inform the applicant of the opportunity to request an administrative hearing to contest the denial pursuant to Subpart K.

b) Renewal of a remittance agent's license shall be denied if upon investigation it is discovered that the remittance agent is not financially sound and of good business integrity or is otherwise ineligible for a license as provided in 5 ILCS 312/2-107. The Department of Index may audit the remitter at any time during the term of the license. Any further investigation will be conducted by the Secretary of State Department of Police.

c) The Department shall consider written complaints regarding remittance agents. Upon receipt of a complaint, Secretary of State police will investigate the matter. If, upon this investigation, it is discovered that a basis for denial exists pursuant to

any Section of the Act or this Part, the remittance agent's current license shall be suspended or revoked as provided in Section 176.430.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.430 Suspension and Revocation of Remittance Agent's License

- a) The Department shall suspend a remittance agent's license under the following circumstances:
 - 1) the licensee fails to keep records detailing transactions with the Secretary of State;
 - 2) the licensee fails to furnish information requested by the Department; or
 - 3) it is discovered that the licensee or a member of the person's immediate family is an employee of the Secretary of State.
- b) The suspension shall remain in effect for 60 days, during which an audit shall be conducted to determine compliance with the Act. If the remittance agent has come into compliance, the license will be restored. If the remittance agent has not come into compliance, the remittance agent's privileges will be revoked.
- c) A remittance agent's license will be revoked under the following circumstances:
 - 1) the licensee attempts to do business or does business as a remittance agent while privileges are suspended;
 - 2) the licensee fails to remit to the Department the proper fees required by 5 ILCS 312/2-107, or the check submitted is returned by the bank because of insufficient funds, or the payment submitted electronically is dishonored for any reason, and the licensee fails to submit the proper fees within 10 days after a written request by the Department;
 - 3) the licensee engages in a fraudulent activity or forgery while operating as a remittance agent, as determined by the Department after the investigation;
 - 4) the Department determines that the licensee is adjudicated by a court of law or an administrative hearing officer as guilty of violating any provision of the Act;
 - 5) the licensee has been suspended 2 or more times in one year; or

6) the licensee has been convicted of any felony.

d) The Department will consider written complaints in determining whether a remittance agent's license shall be suspended or revoked. Upon receipt of a complaint, the Secretary of State Department of Police shall investigate the matter to determine if a basis exists under this Section for a suspension or revocation.

e) Revocation. The remittance agent shall be notified by certified mail that the license to operate as a remittance agent is being revoked. The notice shall contain the effective date of the revocation, the violation that is the cause of the revocation, and how the applicant can contest the revocation. The remittance agent shall be given 10 days from the date of the notice before the revocation will become effective. A revocation shall be entered for no less than a period of two years. After that date, the former licensee may reapply for reinstatement. To be reinstated following a revocation, the licensee must request an administrative hearing as provided in Subpart K. The remittance agent license shall not be restored until the Secretary is satisfied that the licensee will comply with the provisions of the Act and is financially sound or of good business integrity.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.440 Processing Transactions

a) All applications for notary commissions submitted to the Department by persons acting as remittance agents shall be submitted by regular mail with physical documents.

b) All transactions shall be submitted to the Department within 5 days after receipt by the remittance agent and must include all supporting documentation and fees. Depending on the severity of the violation, failure to comply with this Section will be grounds for suspension or revocation.

c) No remittance agent shall employ any individual, or any member of that individual's immediate family, who is employed by the Office of the Secretary of State.

d) All applications must include the remittance agent's assigned number in the designated position on the form.

e) The fee submitted to the Department shall be affixed to the supporting documentation. Failure of the remittance agent to affix the check, electronic

payment, or money order to the proper application shall result in the rejection of the transaction.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.450 Recordkeeping Requirements

a) Each person licensed as a remittance agent as defined in 5 ILCS 312/2-107 shall maintain for a period of three years a record of each transaction involving a remittance to the Department.

b) The records shall be maintained in ledger form or be computerized. All records should be available to employees from the Secretary of State or the officers from the Secretary of State Department of Police within 60 minutes after a request. The records shall contain the following information:

1) The name and address of the remittance agent. If the remittance agent has more than one licensed locations, the records shall reflect the location where the transaction was received or processed or where the records are kept.

2) The name and address of the applicant submitting the transaction. If a remittance agent does not make the initial contact with the applicant but receives a transaction from another remittance agent, the second remittance agent shall record the original applicant's name and that of the initiating remittance agent.

3) The amount of fee received by the remittance agent for delivery to the Department for each transaction. The funds shall be identified as "cash," "check," "electronic payment" or "money order" payable to the Secretary of State, or "check," "electronic payment" or "money order" payable to the remitter.

4) The date the fee and transaction were received by the remittance agent.

5) The date the fee and transaction were submitted to the Department and the method of delivery.

6) If the application was approved, the date that the remittance agent license was approved by the Department.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.460 Severability Clause

If any clause or Section of this Part or the application of any provision of this Part to any person or circumstance is rendered unconstitutional, the remainder of this Part or its application to other persons and circumstances shall not be affected. Each clause shall be severable without rendering the rest of the Part invalid. Likewise, each application of the Part shall be severable without rendering future applications invalid.

(Source: Added at 46 Ill. Reg. _____, effective _____)

SUBPART F: DUTY, FEES, AUTHORITY

Section 176.500 Use of Official Seal

- a) A notary public shall use the notary public's official stamp to perform a notarial act.
- b) A notary public shall use the notary public's official stamp:
 - 1) For a tangible record, by placing a legible imprint of the official stamp on a notarial certificate at the time of the performance of the notarial act; and
 - 2) For an electronic record, by attaching it to or logically associating it with the electronic record.
- c) A notary public shall not place an imprint of the notary public's official stamp over any signature in a record to be notarized or over any writing in a notarial certificate.
- d) When a notarial certificate is on a separate piece of paper attached to the tangible record to be notarized, or when there are attachments to the tangible record to be notarized, a notary public may use one additional imprint of the notary public's official stamp or mark for identification on the tangible record or attachment, if the imprint does not make any part of the record or attachment illegible. The additional stamp will be partially stamped on the notarial certificate, and partially on the record or attachment to the notarized record.
- e) A notary public shall not use the notary public's official stamp for any purpose other than to perform a notarial act.
- f) A notary public shall not permit any other person to use the notary public's official stamp for any purpose.

- g) A notary public shall not use any other notary public's official stamp or any other object in place of the notary public's official stamp to perform a notarial act.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.510 Acquiring Official Seal or Stamp

- a) A notary public shall purchase an official seal or stamp only after receiving authorization, and shall provide a copy of this certificate to the notary public's chosen seal or stamp vendor as part of obtaining the stamp.
- b) The stamp a notary public acquires is the exclusive property of the notary public and shall not be surrendered to an employer upon termination of employment, regardless of whether the employer paid for the seal or for the notary's bond or appointment fees.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.520 Description of the Official Seal

- a) The reasonably legible imprint of an official seal or stamp of a notary public shall contain:
- 1) The State seal;
 - 2) The following words, in descending order, certified in the official stamp to the right of the State seal:
 - A) The words "Official Stamp";
 - B) The printed name of the notary public;
 - C) The words "Notary Public – Illinois;"
 - D) The words "Commission No." immediately followed by the notary public's commission number;
 - E) The words "My Commission Expires", immediately followed by the notary public's commission expiration date, expressed in terms of the month (spelled-out), two-digit date, and complete year.
- b) The imprint of an official stamp of a notary public on a tangible record shall be an imprint capable of being photocopied or reproduced.

- c) The official stamp of a notary public on an electronic record shall contain:
- 1) The printed name of the notary public;
 - 2) The words “Notary Public – Illinois”;
 - 3) The words “My Commission Expires,” immediately followed by the notary public’s commission expiration date, expressed in terms of the month (spelled-out), two-digit date, and complete year.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.530 Replacement of Lost or Stolen Official Seal or Stamp

- a) When an official seal or stamp is lost or stolen the notary public shall notify the Department in writing within 10 business days after discovering the seal or stamp was lost or stolen.
- b) The notary public may not obtain a replacement official seal or stamp until the notary public has properly notified the Department that the original was lost or stolen.
- c) A replacement official seal or stamp must contain some variance from the original seal or stamp.
- d) If the lost or stolen seal or stamp is found or recovered after a replacement has been obtained, the original seal or stamp shall be destroyed.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.540 Notary Public Fees

- a) Pursuant to 5 ILCS 312/3-103, a notary public shall keep the fee schedule listed in 5 ILCS 312/3-104 posted in a conspicuous location at all times.
- b) Upon reviewing that fee schedule, a notary shall select a standard fee, from “no charge” up to the maximum \$5 fee for a notarial act. A notary public shall be consistent when charging fees.
- c) Before performing any notarial act, the notary public shall inform the requestor of the service fee if one will be charged.

d) A notary public may charge the fees set forth in 5 ILCS 312/3-104.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.550 Certificate of Authority

a) Upon appointment as a notary public, the Secretary of State shall send to the person appointed to a notarial commission a Certificate of Authority, with which the person appointed shall obtain an official stamp.

b) Only upon presentation by the notary public of the Certificate of Authority is a vendor authorized to provide the notary with the official stamp described in Section 176.510 or an electronic stamp as described in Section 176.815.

(Source: Added at 46 Ill. Reg. _____, effective _____)

SUBPART G: NOTARIAL ACTS

Section 176.600 Notarial Certificates

a) Minimum requirements. For a notarial certificate to be sufficient, it must contain the information required under 5 ILCS 312/3-106.

b) Additional Information. A notary certificate may contain additional or other information as may be required to satisfy any legal requirements, ethical or legal concerns, or the business needs of the parties to the transaction.

c) Permanently and Securely Attached. A notarial certificate must be stamped, stapled, grommated, or otherwise permanently bound to the tangible document. The use of tape, paper clips, or binder clips is not permitted.

d) Legible Signature Required. When signing a paper certificate, the notary public shall use a legible, recognizable handwritten signature that can be attributed to the notary public performing the notarial act by anyone examining or authenticating the signature. If a notary public's preferred signature is not legible and recognizable, the notary public must also legibly print the notary public's name immediately adjacent to the signature. In this chapter, a signature is legible and recognizable if the letters are distinct and easily readable, and the notary public's full name may be clearly discerned by looking at the signature.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.610 Persons Physically Unable to Sign Documents

a) If a person cannot physically sign a document that is presented to a notary public and directs a person other than the notary to sign the person's name on the document, both the person who is physically unable to sign the document and the person directed to sign the person's name on the document shall appear before the notary at the time the document is signed.

b) The certificate is in Illustration C sufficient for an acknowledgment by a person who cannot physically sign a document and directs another person to sign the person's name on the document.

State of Illinois

County of _____

This instrument was acknowledged before me on _____, day of _____, 20____ by (printed name of person who cannot physically sign the document) who directed that the affiant's signature be affixed to the above instrument by...(name of person directed to sign the document).

(Signature of notarial officer) _____ (Seal, if any)

(Title and rank (optional))

(Source: Added at 46 Ill. Reg. _____, effective _____)

SUBPART H: REMOTE NOTARIAL ACTS

Section 176.700 Standards for Remote Notarial Acts Using Audio-Video Communication

a) Maintenance of record of remote notarial acts. A notary performing a remote notarization shall maintain an accurate and reliable record of each remote notarial act performed by the notary public.

b) Remote notarial act using audio-visual communication: confirmation of identity of principal. Before performing a remote notarial act using audio-video communication, a remotely located notary public shall confirm the identity of the principal by:

1) Personal knowledge;

2) The oath of a credible witness who personally knows the principal and the notary public; or

3) Remote presentation by the principal of a government-issued identification credential that contains a photograph and the signature of the principal.

c) If a remotely located notary public cannot determine that a credential presented by a principal is a valid identification of the principal or cannot match the physical features of the principal with the credential presented by the principal, the remotely located notary public must not take any further action to complete a remote notarial act by using that credential to confirm the identity of the principal.

d) A remotely located notary public may perform a remote notarial act using audio-video communication only if the remotely located notary public and the principal agree to the performance of the remote notarial act using audio-video communication.

e) Standards for audio-video communication technology.

1) Communication technology must provide for synchronous audio-video feeds of sufficient video resolution and audio clarity to enable the remote notary public and remotely located principal to see and speak with each other. The process must provide a means for the remote notary public reasonably to confirm that a record is the same record in which the principal made a statement or on which the principal executed a signature.

2) A remotely located notary public performing a remote notarial act using audio-video communication shall ensure that the communication technology is sufficient to prevent the act and the recording of the act made pursuant to Section 176.710 and that any personally identifiable information disclosed during the performance of the remote notarial act is protected from unauthorized access, except as may be required to comply with the Act and Section 176.710(d), including unauthorized access to:

A) the live transmission of the audio-video feeds;

B) the methods used to perform identity verification; and

C) the electronic record that is the subject of the remote notarization.

f) If a remotely located principal must exit the workflow before completing the identity verification process, the principal must restart the identity verification process from the beginning.

g) Nothing in this Part shall prohibit a remote notary from using enhanced identity verification (i.e., dynamic knowledge-based assessments).

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.710 Remote Notarial Act Recording

- a) A notary public located in the State of Illinois may perform a remote notarial act for remotely located individuals.
- b) A remotely located individual may comply with the requirement to appear personally before a remote notary public by appearing remotely before the notary public using audio-video technology.
- c) A notary public has satisfactory evidence of the identity of a remotely located individual if the notary has personal knowledge of the identity of the remotely located individual or if the notary public has satisfactory evidence of the identity of the remotely located individual by oath or affirmation of a credible witness.
 - 1) Personal knowledge. A notary public has personal knowledge of the identity of the remotely located individual appearing before the notary public if the remotely located individual is personally known to the notary public through dealings sufficient to provide reasonable certainty that the remotely located individual has the identity claimed; or
 - 2) Credible witness. To be a credible witness, the witness shall have personal knowledge of the remotely located individual who has made a statement in or executed a signature on the record that is the subject of the remote notarial act. The notary public shall have personal knowledge of the credible witness or shall have verified the identity of the credible witness. A credible witness may be a remotely located individual if the notary public, credible witness, and remotely located individual whose statement or signature is the subject of the notarial act can communicate by using audio-video technology.
- d) The recording of a remote notarial act performed using audio-video communication, as required by this Part, shall be made available upon request to the following persons or entities:
 - 1) To the principal for whom the remote notarial act was performed;
 - 2) To the Secretary of State;
 - 3) To a law enforcement or federal, state or local governmental agency in the course of an enforcement action or in the performance of any lawful duty;

- 4) Pursuant to a court order or subpoena;
- 5) To the remote notary public who performed the remote notarial act;
- 6) The employer of the remote notary public for any authorized purpose or to ensure compliance with this Part or the Act; or
- 7) To any other person who is authorized by the principal to the remote notarial act to obtain the recording.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.720 Requirement to Restart Performance of Act Under Certain Circumstances

- a) A remotely located notary public who is performing a remote notarial act using audio-video communication must start the performance of the remote notarial act from the beginning, including, without limitation, confirming the identity of the principal in accordance with Section 176.700, if, at any time during the performance of the remote notarial act:
 - 1) The principal or the remotely located notary public exits the session;
 - 2) The audio-video communication link is broken; or
 - 3) The remotely located notary public believes that the process of completing the remote notarial act has been compromised and cannot be completed because of the resolution or quality of the audio or video transmission, or both.
- b) As used in this Section, “session” means the performance of one or more remote notarial acts using audio-video communication on a single set of documents as a single event by a single remotely located notary public with one or more principals and any applicable witnesses.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.730 Notarial Certificates of Remote Notarial Acts

- a) A form of notarial certificate for a remote notarization complies with 5 ILCS 312/3-106 if it is in the form provided by applicable law and contains a statement substantially as follows: “This remote notarization involved the use of audio-video technology.”

b) A short form of acknowledgment prescribed in 5 ILCS 312/6-105 or other form of notarial certificate required by law complies with 5 ILCS 312/6-105 if it follows substantially one of the forms in this subsection (b):

1) For an acknowledgment in an individual capacity:

State of Illinois

County of _____

The foregoing instrument was acknowledged before me using audio-video technology on (date) _____ by (name(s) of individual(s)) _____.

(Signature of notary public)

Notary Public

(Notary seal)

(My commission expires: _____)

2) For an acknowledgment in a representative capacity:

State of Illinois

County of _____

The foregoing instrument was acknowledged before me using audio-video technology on (date) _____ by (name(s) of individual(s)) _____ as

(type of authority, such as officer or trustee) of (name of party on behalf of whom the instrument was executed).

(Signature of notary public)

Notary Public

(Notary seal)

(My commission expires: _____)

3) For a verification on oath or affirmation:

State of Illinois

County of _____

Signed and sworn to (or affirmed) before me using audio-video technology on (date) _____ by (name(s) of individual(s)) _____ making statement).

(Signature of notary public)

Notary public

(Notary seal)

(My commission expires: _____)

(Source: Added at 46 Ill. Reg. _____, effective _____)

SUBPART I: ELECTRONIC NOTARIZATIONS

Section 176.800 Electronic Notary Commission Required

- a) A person may not perform an electronic notarial act unless the Secretary of State has approved the electronic commission of a person as an electronic notary public pursuant to 5 ILCS 312/2-102 and the traditional notary commission is in effect.
- b) The Secretary of State may suspend or revoke the commission of a notary public who performs or offers to perform an electronic notarial act without an electronic notary commission that has been approved by the Secretary of State.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.802 Definitions

Unless otherwise noted, the following definitions shall apply to this Subpart I;

"Electronic notarization platform" or "platform" means any combination of technology that enables a notary to perform a notarial act remotely; that allows the notary public to communicate by sight and sound with the individual for whom he or she is performing the notarial act, and witnesses, if applicable, by means of audio and visual communication; and that includes features to conduct credential analysis and identity proofing.

"Electronic notarization platform provider" or "Provider" means the third-party vendor that operates, maintains, and sells access to an electronic notarization platform. Providers may be manufacturers of the platform, an authorized representative of a manufacturer, or another business entity.

(Source: Added at 47 Ill. Reg. _____, effective _____)

Section 176.805 Electronic Notarization Platform Provider Registration, Information Submitted for Registration, and Confidentiality of Certain Information

- a) Certification required to provide electronic notarization platforms. No person or entity may provide electronic notarization platforms pursuant to 5 ILCS 312/6A-101 unless certified as an provider by the Secretary of State. All certified electronic notarization platform providers must apply for certification on an annual, calendar-year basis, with applications for recertification due in the Secretary's office not later than September 1 of each year.

- b) Who may provide electronic notarization platforms. Electronic notarization platform providers may be manufacturers of the platform, an authorized representative of a manufacturer, or another business entity. Without regard to the specific business operations of the provider, all certified platform providers under this Section shall be responsible for insuring that all of the duties and responsibilities of the platform provider are carried out in accordance with this Part. Platform providers may provide these services through their own resources, through a subsidiary, or through contractual relationships with third parties.
- c) The Secretary of State shall be solely responsible for certifying providers that apply for certification with the Secretary. Persons or entities desiring to be certified as providers may submit an application for certification at any time. An application for certification or recertification as a platform provider shall include the following information:
- 1) The legal name of the provider;
 - 2) The type of business organization of the provider;
 - 3) The mailing address, physical address, email address, and website address of the provider;
 - 4) The name and phone number of a contact person for the provider;
 - 5) The name of any entity supplying the provider with identity proofing, dynamic knowledge-based authentication assessments, credential analysis, or digital certificate services;
 - 6) If the applicant is a business entity, proof that the applicant is in good standing with the Illinois Secretary of State, Business Services Department;
 - 7) A description of the technology used by the provider to ensure compliance with the provisions of this Part and Article VI-A of the Act relating to the performance of electronic notarial acts, with a copy of all manuals and information guides made available to electronic notaries;
 - 8) The plan of the provider for the retention, storage and disposition of documents, electronic journals kept pursuant to 5 ILCS 312/3-107, the recordings required by 5 ILCS 312/6A-104 of electronic notarial acts performed using audio-video communication, and any other records pertaining to the performance of an electronic notarial act, if for any

- 1878 reason the provider no longer makes its platform available to electronic
 1879 notaries public;
 1880
 1881 9) A list of all other jurisdictions and states in which the applicant currently
 1882 operates or has operated a system and contact information for each
 1883 jurisdiction and state;
 1884
 1885 10) Copies of all policy and procedure manuals and training materials used
 1886 regarding training, usage, and contracts and agreements entered into
 1887 between the provider and the electronic notary;
 1888
 1889 11) Proof of liability insurance. The provider must maintain general
 1890 commercial liability or product liability insurance with minimum liability
 1891 limits of \$1 million per occurrence and \$3 million aggregate total. The
 1892 Secretary will accept other commercially acceptable insurance
 1893 arrangements, in the same minimum amounts, if the Secretary determines
 1894 that they provide an equivalent level of coverage;
 1895
 1896 12) Examples of images and audio-video recordings taken by the platform. If,
 1897 in the opinion of the Secretary, the images or recordings are not clear and
 1898 accurate, the Secretary will deny certification;
 1899
 1900 13) A statement that the applicant shall agree to indemnify and hold the State
 1901 of Illinois and the Secretary and its officers, agents and employees
 1902 harmless from and against all liabilities, demands, claims, suits, losses,
 1903 damages, causes of action, fines or judgments, including costs, attorneys'
 1904 fees, witness witness' fees, and expenses incident to any of these actions,
 1905 relating to loss or damage resulting from the negligence or misconduct of
 1906 the applicant, its employees, agents or contractors in the manufacture,
 1907 service, or use of the platform or performance of any other duties required
 1908 by this Section; and
 1909
 1910 14) A declaration that the platform complies with the laws of the State of
 1911 Illinois governing electronic notarial acts.
 1912
 1913 c) Notwithstanding any other provision of law, the information provided to the
 1914 Secretary of State pursuant to subsection (b)(7) by an entity applying for
 1915 certification with the Secretary of State is the provider's confidential proprietary
 1916 information and a trade secret and is not a public record.
 1917
 1918 d) The Secretary of State will certify a system if the system meets all of the
 1919 following requirements:
 1920

- 1921 1) Provides secure access to the system by two-factor verification or another
1922 secure means that identifies the electronic notary public accessing the
1923 system;
1924
- 1925 2) Takes all reasonable steps to ensure that an electronic notary public using
1926 its system is duly commissioned with the Secretary of State and the
1927 commission is in active status;
1928
- 1929 3) Provides for uninterrupted, continuous, and simultaneous audio-video
1930 communication between an electronic notary public and a principal;
1931
- 1932 4) Provides audio-video communication with a video resolution and audio
1933 quality that ensures that:
1934
1935 A) An electronic notary public and a principal can see, hear and
1936 communicate with each other in real time; and
1937
1938 B) An electronic notary public can match the appearance of a
1939 principal with the credential presented by the principal.
1940
- 1941 5) Provides a secure communication link for audio-video communication that
1942 ensures that only the parties to an electronic notarial act and those persons
1943 authorized by each party to the electronic notarial act are part of the audio-
1944 video communication;
1945
- 1946 6) Provides an electronic journal of electronic notarial acts that complies with
1947 the provisions of this Subpart J and 5 ILCS 312/3-107 governing the
1948 requirement that an electronic notary public keep an electronic journal for
1949 each electronic notarial act;
1950
- 1951 7) Provides for the recording of an electronic notarial act performed by
1952 audio-video communication that complies with 5 ILCS 312/6A-104 and
1953 that is of sufficient quality to ensure verification of the recorded electronic
1954 notarial act;
1955
- 1956 8) Is capable of confirming that an electronic document presented for the
1957 performance of an electronic notarial act is the same electronic document
1958 on which the electronic notarial act was performed;
1959
- 1960 9) Enables an electronic notary public to affix the wording of a notarial
1961 certificate required by 5 ILCS 312/6A-105, as applicable, and the
1962 electronic notary seal of the electronic notary public required by 5 ILCS
1963 312/3-101.

- 10) Enables a person viewing an electronic document on which an electronic notarial act was performed to view the electronic signature and electronic seal of the electronic notary public who performed the electronic notarial act.
- 11) Provides a method for determining whether an electronic document on which an electronic notarial act was performed has been altered after the electronic seal of the electronic notary public who performed the electronic notarial act has been affixed to the electronic document and the electronic notarial act was completed.
- 12) Prevents unauthorized access to:

 - A) An audio-video communication between an electronic notary public and a principal;
 - B) The recording of an electronic notarial act required by 5 ILCS 312/6A-104 for an electronic notarial act performed using audio-video communication;
 - C) Any personally identifiable information used in a credential analysis, in identity proofing, or in any other part of an audio-video communication, including without limitation:

 - i) A method of credential analysis and the output of that analysis;
 - ii) Any credential presented to an electronic notary public;
 - iii) The questions and answers used to conduct a dynamic knowledge-based authentication assessment;
 - iv) The principal's birthdate, Social Security number, and other personally identifiable information;
 - D) The electronic document on which an electronic notarial act was performed.
- 13) Provides a method of generating a paper copy of the electronic journal of an electronic notary public and an electronic document on which an electronic notarial act was performed, including, without limitation, the electronic notarial certificate for the electronic document, the electronic

signature and electronic seal of the electronic notary public who performed the electronic notarial act and any other document associated with the electronic document.

- d) The Secretary shall notify the applicant to be certified or recertified as a system provider in writing whether the application has been approved or denied. Before denying an application due to minor typographical or clerical errors, the Secretary will advise the applicant of the error and give the applicant 14 business days to correct the error.
- e) If an original or amended application to be certified or recertified as a system provider is denied, the applicant may not reapply until 12 months after the date of the denial or the date of the final order of the Secretary upholding the denial if the decision is reviewed in a formal administrative hearing. Prior to denying an application based on de minimis errors, including but not limited to typographical or scrivener's errors, the Secretary of State shall advise the applicant of the error and provide the applicant 14 business days to correct the error.
- f) In deciding whether to grant or deny an application, the Secretary of State will take into consideration the applicant's past performance in Illinois and other jurisdictions, whether the applicant's license or certification has ever been suspended, revoked, denied, cancelled or withdrawn, and whether another state has denied the applicant's application to operate as a provider in that state.
- g) An applicant that has been certified pursuant to this Section may at any time submit an amended application seeking certification to provide platforms in addition to the platforms previously certified for use by the applicant.
- h) If there is any change in a platform provider after certification that affects the ability of an electronic notary public to comply with this Part when performing an electronic notarial act, the provider must notify the Secretary of State of the change. Upon receiving notice of the change, the Secretary of State will determine whether the provider continues to comply with this Part. If the Secretary of State determines that the provider no longer complies with this Part, a provider shall not use the platform to perform an electronic notarial act in this State.
- i) Services that must be provided. After certification or recertification by the Secretary, providers shall provide the following services and meet the following requirements:
 - 1) The provider shall only allow use of systems that have been authorized in Illinois pursuant to this Section;

- 2) The provider shall provide a toll-free customer service/question/complaint hotline that is answered, at a minimum, during normal business hours Central Time, Monday through Friday;
- 3) The provider must provide a course of training and written instructions for electronic notaries on operation, maintenance, and safeguards against improper operations, and instruct the electronic notary to maintain a journal of services performed on the system (see Subpart J). The provider must give the Secretary of State copies of all materials used in the course of this training available to the Illinois electronic notaries must;
- 4) At the request of the Secretary of State, the provider shall provide expert or other required testimony in any civil or criminal proceedings or administrative hearings as to issues involving the platform, including how the platform functions. Failure to do so will result in the denial, suspension, or revocation of the certification;
- 5) Providers must notify the Secretary of State within 7 days after an Illinois electronic notary has been enrolled in the platform, and shall provide the Secretary, upon request, additional reports, to include but not be limited to records of usage in Illinois;
- 6) The provider must immediately notify the Secretary of State in writing if the provider or the manufacturer becomes unable to provide systems in Illinois or if the provider has been suspended or decertified in any other jurisdiction;
- 7) The Secretary of State may designate the form, format and method of delivery (e.g., facsimile, electronic transfer, etc.), for any reports, information, or data required to be filed with the Secretary pursuant to this Section, including but not limited to, noncompliance report forms, tampering or certifications;
- 8) The Secretary of State, or a delegate, shall have the right to conduct independent inspections of platform providers to determine if they comply with this Section. The Secretary shall notify, in writing, and require providers to correct any noncompliance revealed during any inspections. Within 30 days after receiving a notice of noncompliance, the provider, shall notify the Secretary of State, in writing, of any corrective action taken. If the provider fails to correct any noncompliance found, the Secretary will deny, suspend or revoke, the certification. This penalty will

be in addition to any private causes of action that may exist for a notary that has been aggrieved by the noncompliance of the provider;

9) Upon the request of the Secretary of State, the provider shall, at no cost to the Secretary of State, provide the Secretary with not more than accounts for each system that is certified under this Section. These accounts will be used for the Secretary's review and compliance audit, and any other lawful purpose. The platform provider shall also provide to the Secretary, upon request, the following materials:

A) A detailed description of the platform, including complete instructions for operation; and

B) Complete technical specifications describing the system's accuracy, reliability, security, data collection and recording, tamper and circumvention detection.

10) Providers shall maintain records related to enrolled notaries for a period of three years after the notary disenrolls from the platform.

j) Criteria for Certification of Platforms. Only platforms that have been certified for use in Illinois pursuant to this Section may be used by Illinois electronic notaries. Certification of a platform shall be based on whether the platform complies with any nationally recognized standards and this Part.

k) The Secretary of State may, suspend or decertify a provider from providing electronic notarization platforms in Illinois. The Secretary shall provide written warning, and 30 days to come into compliance, to a provider regarding any violation of this Section that may lead to suspension or decertification. The provider shall respond in writing to the Secretary describing the course of corrective action. If the the Secretary determines that the course of corrective action is unacceptable, or there are recurring instances of the violations that led to the notice following the corrective action, the Secretary may decertify the provider from providing platforms in Illinois or suspend the provider from allowing any new enrollments for a period of 3 months. The following are considered actions warranting suspension or decertification:

1) Failure to provide information, as requested, to the Secretary of State in a timely manner;

2) Failure to maintain liability insurance as required;

- 3) Failure to comply with the duties and obligations contained in this Section;
- 4) Failure to provide Illinois electronic notaries with correct information regarding the requirements of this Section;
- 5) Failure to report enrollments and disenrollments to the Secretary within 7 days after the enrollment or disenrollment;
- 6) Failure to inform the Secretary of suspension or decertification from service in another jurisdiction within 30 days;
- 7) Giving information to a notary that results in or could result in the system being circumvented;
- 8) Allowing enrollment by a person that is not commissioned as an electronic notary in Illinois;
- 9) Failure to meet any of the requirements of the Act or this Subpart;
- 10) Solicitation of an Illinois notary for any service or product other than the system that has been certified;

l) Notification of Decertification or Decision Not to Recertify. When the Secretary decides not to recertify or to decertify a provider or a provider ceases to operate, the Secretary will notify all affected electronic notaries public in writing. The notifications shall be sent not less than 30 days after the decision, or, if the provider requests a formal administrative hearing within that 30-day period to review the decision, notification will not be sent until the entry of a final order of the hearing officer upholding the decision.

m) Applicants whose applications for certification or recertification have been denied and providers that have been suspended or decertified may request an administrative hearing in accordance with Subpart K. Decisions not to recertify or to suspend or decertify will not be carried out until at least 30 days after the notice of the decision has been sent to the applicant or provider or, if the applicant or provider requests a hearing within that 30-day period, until the entry of a final order of the hearing officer upholding that decision. The hearings held under this Part shall be conducted in accordance with all the rights, privileges and procedures set forth in Subpart K. A request for a hearing to contest a decision to deny certification or recertification or to decertify must be made in writing and must be sent to the Office of the Secretary of State, Department of Administrative

Hearings, Michael J. Howlett Building, Room 207, Springfield, Illinois 62756, 217/524-0124.

- n) Any solicitation or correspondence sent from or provided by the provider to a potential user must conspicuously and in bold include the following statements:
“(name of provider) is a privately owned entity and is not owned, operated, or endorsed by the Illinois Secretary of State or any other Illinois government agency” and “(name of provider) is not the sole electronic notarization system provider authorized by the Secretary of State.” The solicitation or correspondence may not be attached to or have the appearance of any official correspondence sent by the Illinois Secretary of State; may not state or otherwise indicate that the provider is the sole or only provider in Illinois; and shall not use any of the same fonts Secretary of State uses (Arial and Times New Roman) when the Secretary sends correspondence to notaries. A platform provider may not use any personal information (including the name, address, telephone number or email address) provided by a notary to solicit the notary for any service or product other than the certified electronic notarization system.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.810 Information Required in Electronic Seal, Electronic Documents Made Tamper-Evident, and Notation Required if Audio-Video Communication Is Used to Perform Notarial Acts

- a) Except as otherwise provided in this section, the electronic seal of an electronic notary public must include the information required to be set forth in a an official seal pursuant to Section 176.520 and 5 ILCS 312/3-101(a) and must generally conform to the size and other requirements set forth in Section 176.520 and 5 ILCS 312/3-101(a) and (b-5).
- b) After the electronic notarial certificate, if any, electronic seal, and electronic signature are affixed or attached to or logically associated with an electronic document and the electronic notarial act is complete, the electronic document must be made tamper-evident.
- c) If an electronic notary public performs an electronic notarial act using audio-video communication, the electronic notary public must include adjacent to the electronic seal or in the electronic notarial certificate a notation indicating that the electronic notarial act was performed using audio-video communication. The notation required by this subsection must be the following statement or a substantially similar statement: "Notarial act performed by audio-video communication."

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.815 Access and Use of Electronic Notary Seal and Electronic Signature

- a) Neither the employer of an electronic notary public nor any of the employer's employees or agents shall use or permit the use of an electronic notary seal or signature by anyone other than the authorized electronic notary public to whom it is registered.
- b) Access to the electronic notary signatures and electronic notary seals shall be protected by the use of a biometric authentication, password authentication, token authentication, or other form of authentication approved by the Secretary according to the Act and this Part.
- c) Report of Theft or Vandalism
 - 1) An electronic notary public must report in writing to the Secretary the theft or vandalism of the notary's electronic signature, electronic notary seal, or electronic record, including the backup record, within 10 days after discovering the theft or vandalism.
 - 2) Failure to report the theft or vandalism is grounds for revocation of an electronic notary public's commission.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.820 Changes to Digital Certificate and Electronic Seal of Electronic Notary

- a) An electronic notary public shall at all times maintain an electronic seal and a digital certificate that includes the electronic notary's electronic signature. Both the electronic seal and digital certificate must comply with the Act and this Part.
- b) An electronic notary public shall replace an electronic seal or digital certificate under the following circumstances:
 - 1) The electronic seal or digital certificate has expired;
 - 2) The electronic seal or digital certificate has been revoked or terminated by the device's issuing or registering authority; or
 - 3) The electronic seal or digital certificate is for any reason no longer valid or capable of authentication.

- c) An electronic notary public who replaces an electronic seal or digital certificate shall provide the following to the Secretary of State within 10 days after the replacement:
- 1) The electronic technology or technologies to be used in attaching or logically associating the new electronic seal or digital certificate to an electronic document;
 - 2) Applicant's new digital certificate, if applicable;
 - 3) A copy of the applicant's new electronic seal, if applicable; and
 - 4) Any necessary instructions or techniques supplied by the vendor that allow the notary's electronic seal or digital certificate to be read and authenticated.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.825 Standards for Communication Technology

- a) Communication technology must provide for synchronous audio-video feeds of sufficient video resolution and audio clarity to enable the electronic notary public and the individual to see and speak with each other. The process must provide a means for the electronic notary reasonably to confirm that an electronic record before the electronic notary public is the same record in which the individual made a statement or on which the individual executed a signature.
- b) Communication technology must provide reasonable security measures to prevent unauthorized access to:
 - 1) The live transmission of the audio-visual feeds;
 - 2) The methods used to perform identity verification; and
 - 3) The electronic record that is the subject of the electronic notarization.
- c) If an individual must exit the workflow before completing of the identity verification process, the individual must restart the identity verification process from the beginning.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.830 Duties of Electronic Notary Public

An electronic notary public shall take reasonable steps to:

- a) Ensure the integrity, security and authenticity of each electronic notarial act performed by the electronic notary public;
- b) Maintain a secure backup of the electronic journal kept by the electronic notary public in accordance with 5 ILCS 312/3-107;
- c) Ensure that any audio-video communication while performing an electronic notarial act, and any journal records and audio-video recordings stored as a function of the communication technology, are secure from unauthorized access or interception.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.835 Standards for Identity Verification

- a) If an electronic notary public does not have satisfactory evidence of the identity of a remotely located individual pursuant to subsection 6A-103(b)(1) of the Act, the electronic notary public must reasonably verify the individual's identity through a multi-factor authentication procedure as provided in this Section. The procedure must analyze the individual's identification credential that is the subject of remote presentation against trusted third-person data sources, bind the individual's identity following successful dynamic knowledge-based authentication assessment, and permit the electronic notary public to visually compare the identification credential and the individual. Credential analysis and identity proofing must be performed by a reputable third party who has provided evidence to the electronic notary public of the ability to comply with this Section.
- b) Credential analysis must use public or private data sources to confirm the validity of the identification credential that is the subject of electronic presentation by an individual and shall, at a minimum:
 - 1) Use automated software processes to aid the electronic notary public in verifying the identity of each individual;
 - 2) Require the identification credential to pass an authenticity test, consistent with sound commercial practices, that uses appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features and to confirm that the identification credential is not fraudulent or inappropriately modified;

3) Use information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identification credentials; and

4) Enable the electronic notary public to visually compare for consistency the information and photograph on the identification credential and the individual as viewed by the electronic notary public in real time through communication technology.

c) Identity proofing must be performed using a dynamic knowledge-based authentication assessment. The assessment is successful if it meets the following requirements:

1) The individual must answer a quiz consisting of a minimum of five questions related to the individual's personal history or identity formulated from public or private data sources;

2) Each question must have a minimum of five possible answer choices;

3) At least 80% of the questions must be answered correctly;

4) All questions must be answered within two minutes;

5) If the individual fails the first attempt, the individual may retake the quiz one time within 24 hours;

6) During a retake of the quiz, a minimum of 40% of the prior questions must be replaced;

7) If the individual fails the second attempt, the individual is not allowed to retry with the same electronic notary public within 24 hours of the second failed attempt; and

8) The electronic notary public must not be able to see or record the questions or answers.

d) An electronic notary public has satisfactory evidence of the identity of the individual if:

1) The electronic notary public has personal knowledge of the identity of the individual; or

2) The individual is identified by oath or affirmation of a credible witness in accordance with the following requirements:

- A) To be a credible witness, the witness must have personal knowledge of the individual;
- B) The electronic notary public must have personal knowledge of the credible witness or verify the identity and the credible witness by multi-factor authentication in accordance with subsections (a), (b), and (c); and
- C) A credible witness may be outside the physical presence of the electronic notary or principal if the electronic notary public, credible witness, and principal can communicate by using audio-video technology.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.840 Maintenance of Record of Electronic Notarial Act

Pursuant to 5 ILCS 312/3-107, an electronic notary public shall maintain an accurate and reliable journal record of each electronic notarial act performed by the electronic notary public. The record must be maintained for a period of not less than 7 years and must be made available to the Secretary upon request.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.845 Electronic Notarial Act Using Audio-Video Communication – Duty of Electronic Notary and System Provider to Protect Recording and Identifying Information from Unauthorized Access

An electronic notary public performing an electronic notarial act using audio-video communication and the provider whose system is used to perform the electronic notarial act using audio-video communication shall ensure that the recording of the electronic notarial act made pursuant to 5 ILCS 312/6A-104 and any personally identifiable information disclosed during the performance of the electronic notarial act is protected from unauthorized access.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.850 Use of Platform Provider to Store Electronic Journal and Recording

- a) An electronic notary public may use a system provider to store the electronic journal of the electronic notary public and the recording made pursuant to 5 ILCS

312/6A-104 of an electronic notarial act performed using audio-video communication if the provider has registered with the Secretary of State and the provider's certification is in effect.

- b) Except as otherwise provided in this subsection, a provider that stores the electronic journal of an electronic notary public and the recording made pursuant to 5 ILCS 312/6A-104 of an electronic notarial act performed using audio-video communication must allow the electronic notary public sole control of the electronic journal and the recording. The provider may allow access to the electronic journal of an electronic notary public or a recording if the electronic notary public has authorized such access or the access to the electronic journal or recording is authorized pursuant to the Act or this Part.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.855 Availability of Recording and Documents to Certain Persons and Entities

The recording made pursuant to 5 ILCS 312/6A-104 of an electronic notarial act performed using audio-video communication may be made available:

- a) To the principal for whom the electronic notarial act was performed;
- b) To the Secretary of State;
- c) To a law enforcement or federal, state or local governmental agency in the course of an enforcement action;
- d) Pursuant to a court order or subpoena;
- e) To the electronic notary public who performed the electronic notarial act for any purpose set forth in subsections (a) to (d), inclusive;
- f) To any other person who is authorized by the parties to the electronic notarial act to obtain the recording; or
- g) For any authorized purpose and to ensure compliance with the provisions of this Part and Article VI-A of the Act governing electronic notarial acts, the employer of an electronic notary public who performs an electronic notarial act using audio-video communication or the provider whose system was used to perform such an electronic notarial act, or both the employer of the electronic notary public and the provider, may access the recording made pursuant to 5 ILCS 312/6A-104 of the electronic notarial act.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.860 Electronic Notarial Acts

- a) An electronic notary public may perform an electronic notarial act using audio-video communication only if the electronic notary public and the principal agree to the performance of the electronic notarial act using audio-video communication at the outset of the electronic notarization and before the identity of the principal has been confirmed.
- b) Before performing an electronic notarial act using audio-visual communication, an electronic notary public shall confirm the identity of the electronic document that is the subject of the electronic notarial act and of the identity of the principal. The identity of the principal shall be confirmed by:
 - 1) Personal knowledge;
 - 2) The oath of a credible witness who personally knows the principal and the notary public; or
 - 3) Each of the following:
 - A) Remote presentation by the principal of a government-issued identification credential that contains a photograph and the signature of the principal;
 - B) Credential analysis of the government-issued credential and the data on the credential that complies with 5 ILCS 312/6A-103; and
 - C) A dynamic knowledge-based authentication assessment that complies with 5 ILCS 312/6A-103 or identity proofing pursuant to 5 ILCS 312/6A-103.
- c) If an electronic notary public cannot determine that a credential presented by a principal is a valid identification of the principal or cannot match the physical features of the principal with the credential presented by the principal, the electronic notary public must not take any further action to complete an electronic notarial act by using that credential to confirm the identity of the principal.
- d) Requirement to restart performance of the notarial act under certain circumstances. An electronic notary public who is performing an electronic notarial act using audio-video communication must restart it from the beginning,

including, without limitation, confirming the identity of the principal, if, at any time during the performance of the electronic notarial act:

- 1) The principal or the electronic notary public exits the session;
- 2) The audio-video communication link is broken; or
- 3) The electronic notary public believes that the process of completing the electronic notarization has been compromised and cannot be completed because of the resolution or quality of the audio or video transmission, or both.

- e) An electronic notarial act will have the same force and effect as a notarial act performed in person.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.865 Certificates of Authority for Electronic Notarial Acts

- a) A form of notarial certificate for an electronic notarization complies with 5 ILCS 312/6A-105 if it is in the form provided by applicable law and contains a statement substantially as follows: “This electronic notarization involved the use of an electronic system provider.”

- b) A short form of acknowledgment prescribed in 5 ILCS 312/6A-106 or other form of notarial certificate required by law complies with the Act if it substantially matches one of the following statements:

- 1) For an acknowledgment in an individual capacity:

State of Illinois

County of

The foregoing instrument was acknowledged before me using an electronic notarization system provider on (date) by (name(s) of individual(s)).

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires:)

- 2) For an acknowledgment in a representative capacity:

State of Illinois

2561 County of
 2562 The foregoing instrument was acknowledged before me using an
 2563 electronic notarization system provider on (date) by (name(s) of
 2564 individual(s)) as (type of authority, such as officer or trustee) of (name of
 2565 party on behalf of whom the instrument was executed).
 2566 (Signature of notary public)
 2567 Notary Public
 2568 (Electronic seal)
 2569 (My commission expires:)

2570
 2571 3) For a verification on oath or affirmation:
 2572

2573 State of Illinois
 2574 County of:
 2575 Signed and sworn to (or affirmed) before me using an electronic
 2576 notarization system provider on (date) by (name(s) of individual(s)
 2577 making statement).
 2578 (Signature of notary public)
 2579 Notary public
 2580 (Electronic seal)
 2581 (My commission expires:)

2582
 2583 4) For witnessing or attesting a signature:
 2584

2585 State of Illinois
 2586 County of:
 2587 Signed or attested before me on (date) by (name(s) of persons(s))
 2588 (Signature of notary Public)
 2589 (Electronic seal)
 2590 (My commission expires:

2591
 2592 (Source: Added at 46 Ill. Reg. _____, effective _____)
 2593

2594 **Section 176.870 Prohibited Acts**
 2595

2596 a) An electronic notary public shall not:
 2597

2598 1) Engage in any fraudulent activity, deceptive practice, or inequitable act in
 2599 connection with the Act.

2600
 2601 2) Engage in any activity prohibited by 5 ILCS 312/6-104.
 2602

- 3) Perform an electronic notarial act using audio-video communication while the electronic notary public is at a location outside this State.
- 4) Fail to record an electronic notarial act performed using audio-video communication or fail to keep such a recording as required by 5 ILCS 312/6A-104.
- 5) Use an electronic seal or digital certificate that is invalid or fails to comply with this Subpart or Article VI-A of the Act during the performance of an electronic notarial act.
- 6) Fail to notify the Secretary of State of a change in the electronic seal or digital certificate.
- 7) Use one's own electronic seal, alone or together with the electronic signature, except in the performance of an electronic notarial act.
- 8) Allow unauthorized access to the electronic journal kept by the electronic notary public pursuant to 5 ILCS 312/3-107, the electronic signature or the digital certificate, or to the electronic notarization solution used by the electronic notary public to perform an electronic notarial act.
- 9) Violate any other provision of this Subpart I or Article VI-A of the Act relating to the performance of an electronic notarial act.

- b) Penalties, Prohibitions, Liabilities, Sanctions and Remedies
The penalties, prohibitions, liabilities, sanctions and remedies for the improper performance of an electronic notarial act are the same as provided by law for the improper performance of a notarial act that is not an electronic notarial act.

(Source: Added at 46 Ill. Reg. _____, effective _____)

SUBPART J: JOURNAL

Section 176.900 Journal Requirements

- a) Identification of Notary Public in Journal

- 1) Every notary public, whether or not also an electronic notary public, must record each notarial act in a journal at the time of notarization to comply with 5 ILCS 312/3-107 and this Subpart J.

2) Each journal of a notary public, whether maintained on a tangible medium or in an electronic format, must contain all of the following information in any order:

A) The name of the notary public as it appears on the commission;

B) The notary public's commission number;

C) The notary public's commission expiration date;

D) The notary public's office address of record with the Secretary of State;

E) A statement that, in the event of the death of the notary public, the journal shall be delivered or mailed to the Secretary of State;

F) The meaning of any not commonly abbreviated word or symbol used in recording a notarial act in the notarial journal; and

G) The signature of the notary public.

b) If a notary public's name, commission expiration date, or address changes before the notary public stops using the notarial journal, the notary public shall add the new information after the old information and the date on which the information changed.

c) Electronic journals. An electronic journal kept by a notary public or an electronic notary public pursuant to 5 ILCS 312/3-107 must comply with the requirements set forth in subsections (a) and (b) and must also:

1) Prohibit the electronic notary public or any other person from deleting a record included in the electronic journal or altering the content or sequence of such a record after the record is entered into the electronic journal;

2) backed up by the electronic notary public and the electronic notarization system provider whose, electronic notarization platform was used by the electronic notary, if applicable; and

3) Omit all personally identifiable information.

d) Inspection of journals. A notary public shall allow for the inspection of the journal or electronic journal as required by 5 ILCS 312/3-107.

- e) Notwithstanding any other subsection of this Part to the contrary, a notary employed by an attorney or law firm is not required to keep a journal of notarizations performed during of the notary's employment if the attorney or law firm maintains a copy of the documents notarized. No attorney or law firm shall be required to violate attorney-client privilege by allowing or authorizing inspection of any notarizations that are recorded n a notary's journal. Journals of notarizations performed solely within the course of a notary's employment with an attorney or law firm is the property of the employing attorney or firm.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.910 Journal Entries and Prohibited Entries

- a) Separate entries. Each notarial act must be indicated as a separate entry in the journal.
- b) Required entries. Each entry shall contain at least the following information:
- 1) The name of the principal;
 - 2) The name of each witness;
 - 3) The name of any other person that signed for the principal;
 - 4) The title or a description of the document notarized;
 - 5) The date of the notarization;
 - 6) Whether the notarization was conducted in person, remotely, or electronically;
 - 7) The fee charged, if any;
 - 8) The physical location of the notary and the principal.
- c) Optional entries. In addition to the entries required under 5 ILCS 312/3-107 of the Act and this Part, a journal may contain the signature of the individual for whom the notarial act is performed and any additional information about a specific transaction that might assist the notary public to recall the transaction.
- d) Prohibited entries. A notary public shall not record in the notary's journal the following:

- 1) An identification number that was assigned by a governmental agency or by the United States to the principal that is set forth on the identification card or passport presented as identification;
 - 2) Any other number that could be used to identify the principal of the document;
 - 3) A biometric identifier, including a fingerprint, voice print or retina image of the principal; and
 - 4) An individual's first name or first initial and last name in combination with and linked to any one or more of the following data elements when the data elements are not encrypted or redacted:
 - A) Social Security number;
 - B) Driver's license number or a State identification card number issued instead of a driver's license; or
 - C) Financial account information.
- e) A notary public who inadvertently records information prohibited under subsection (c) shall redact such information before providing public access to or copies of the journal.
- f) Fees. Each notarial fee charged should correspond to the notarial act performed. If a fee is waived or not charged, the notary public shall indicate this fact in the journal entry using notarizations such as "n/c," "0" (zero) or " – "(dash). Clerical and administrative fees, if charged, shall be separately itemized in the journal.
- g) Address. For journal entries, address means the city and state only.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.920 Form and Content of Journal Maintained on a Tangible Medium

- a) A journal maintained on paper or on any other tangible medium may be in any form that complies with this Section and the entry requirements in 5 ILCS 312/3-107.
- b) The cover and pages inside the cover must be bound together by any binding method that is designed to prevent the insertion, removal, or substitution of the

cover or a page. This includes glue, staples, grommets, or another binding, but does not include the use of tape, paper clips, or binder clips.

- c) Each page must be consecutively numbered from the beginning to the end of the journal. If a journal provides two pages on which to record the required information about the same notarial act, both pages may be numbered with the same number or each page may be numbered with a different number. Page numbers must be preprinted.
- d) Each line, or entry if the journal is designed with numbered entry blocks, must be consecutively numbered from the beginning to the end of the page. If a line extends across two pages, the line must be numbered with the same number on both pages. A line or entry number must be preprinted.
- e) The journal of a notary public must remain within the exclusive control of the notary public at all times.
- f) A notary public who performs multiple notarizations for the same principal within a single document may abbreviate the entry of those notarizations in the notary journal, except that a separate entry must be made for each type of notarial act. The abbreviated entry must contain all the information required by the Act, and must include the number of notarizations performed within the specified document.
- g) A journal maintained in a tangible format must be retained for a minimum of 7 years after the final notarial act chronicled in the journal.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.930 Form and Content of an Electronic Notarial Journal

- a) A journal maintained in electronic format may be in any form that complies with this Section and the entry requirements in 5 ILCS 312/3-107.
- b) A journal maintained in an electronic format must be designed to prevent the insertion, removal, or substitution of an entry.
- c) A journal maintained in an electronic format must be securely stored and recoverable in case of a hardware or software malfunction.
- d) Entries from the notarial journal must be available upon request by the Secretary of State in a PDF format.

- e) If a signature of a signer is an electronic notarial journal, the signature must be:
 - 1) Attached to or logically associated with the electronic journal; and
 - 2) Linked to the data in a manner so that any subsequent alterations to the electronic notarial journal entry are detectable and may invalidate the electronic notarial journal entry.
- f) The journal of a notary public shall remain within the exclusive control of the notary public at all times.
- g) A notary public who performs multiple notarizations for the same principal within a single document may abbreviate the entry of those notarizations in the notary journal, except that a separate entry must be made for each type of notarial act. The abbreviated entry must contain all the information required by the Act, and must include the number of notarizations performed within the specified document.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.940 Custody and Control of the Journal and Notification of a Lost, Compromised, or Stolen Journal

- a) The notary public must maintain custody and control of the journal at all times during the term of the notary public's commission. When not in use, the journal must be kept in a secure location and accessible only to the notary public. A secure location includes the notary public's sole possession or a locked location to which only the notary public has access.
- b) Notification of loss, compromise, or theft of a journal under 5 ILCS 312/3-107 must be made in writing or electronically within 10 business days after the date the notary public or personal representative or guardian discovers the loss or theft of the journal. In this Section, the term "loss" includes journals that are misplaced, destroyed, or otherwise made unavailable. The notification must include all of the following:
 - 1) A statement of whether the journal is lost, compromised, destroyed, or stolen;
 - 2) An explanation of how the journal became lost, compromised, destroyed, or stolen;
 - 3) The date the notary public discovered that the journal was lost,

compromised, destroyed, or stolen;

4) A statement that the journal has been destroyed or that the notary public does not possess the journal and does not know who possesses it or where it is located; and

5) A statement that, if the notary public subsequently reacquires possession of the journal, the notary public shall file a written statement with the Secretary of State within 10 business days after the date the notary public reacquires possession of the lost or stolen journal.

c) If a notary public subsequently reacquires possession of a lost or stolen journal, the notary public shall file with the Secretary of State a written explanation of how the journal was recovered within 10 business days after the date the notary public reacquires possession of the journal.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.950 Inspection of Journal, Response to Subpoenas and Investigative Requests, and Public Information

a) Inspection. In the notary's presence, any person may inspect an entry in the official journal of notarial acts during the notary's regular business hours, but only if:

1) The person's identity is personally known to the notary or proven through satisfactory evidence;

2) The person affixes a signature in the journal in a separate, dated entry;

3) The person specifies the month, year, type of document, and the name of the principal for the notarial act or acts sought; and

4) The person is shown only the entry or entries specified.

b) If the notary has a reasonable and explainable belief that a person has a criminal or harmful intent in requesting information from the notary's journal, the notary may deny access to any entry or entries.

c) Subpoenas and investigative requests. A request for inspection or certified copies of a journal made through an investigative request by law enforcement or by the Secretary of State or in a subpoena in the course of criminal or civil litigation, or administrative proceeding shall be complied with in the manner specified in the

request or subpoena.

- d) Records relating to notarial acts performed are public records subject to the Freedom of Information Act [5 ILCS 140]. The notary shall promptly provide a certified copy of any entries in the notary public's records to any person requesting the copy. The notary shall provide the certified copy not later than 10 business days after the date of receipt of the fees, unless the notary cannot produce the certified copy within 10 business days from the date of receipt of the fees, in which case the notary shall certify that fact in writing to the person requesting the copy on or before the 10th business day from the date of receipt of the fees, and set a date and hour within a reasonable time when the certified copy will be provided. The notary must redact any personally identifiable information before releasing the information.
- e) If any portion of the audio-video recording of an electronic or remote notarization includes biometric information or includes an image of the identification card used to identify the principal, that portion of the recording is confidential and shall not be released without consent of the individual whose identity is being established, unless ordered by a court of competent jurisdiction or upon request by the Secretary of State.
- f) Failure of a notary public to promptly and adequately respond to a request for public information in accordance with this Part may be good cause for suspension or revocation of a notary commission or other disciplinary action against the notary.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.960 Electronic Journal Record Retention and Depositories

- a) A notary public must retain the electronic journal required and any audio-video recording created under 5 ILCS 312/6A-104 in a computer or other electronic storage device that protects the journal and recording against unauthorized access by password or cryptographic process. The recording must be created in an industry-standard, audio-visual file format and must not include images of any electronic record that was the subject of the electronic or remote notarization.
- b) An electronic journal must be retained for least 7 years after the last electronic or remote notarial act chronicled in the journal. An audio-visual recording must be retained for at least 7 years after the recording is made.
- c) A notary public must take reasonable steps to ensure that a backup of the electronic journal and audio-visual recording exists and is secure from

unauthorized use.

d) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of an electronic journal or audio-visual recording must:

- 1) Comply with the retention requirements of this Section;
- 2) Transmit the journal and recording to one or more depositories under subsection (e); or
- 3) Transmit the journal and recording in an industry-standard readable data storage device to the Illinois Secretary of State, Index Department at 111 E. Monroe St., Springfield, IL 62756.

e) A notary public, guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public may, by written contract, engage a third person to act as a depository to provide the storage required by this Section. A third person under contract under this Section shall be considered a depository. The contract must:

- 1) Enable the notary public, guardian, conservator, or agent of the notary public, or the personal representative of the deceased notary public to comply with the retention requirements of this Section even if the contract is terminated; or
- 2) Provide that the information will be transferred to the notary public, guardian, conservator, or agent of the notary public, or the personal representative of the deceased notary public if the contract is terminated.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.970 Complaints of Alleged Violations

a) A person may file a complaint in writing with the Secretary of State alleging that a notary public has violated one or more of the provisions of the Act or any provision of this Part. The complaint should include as much information as possible, including:

- 1) The name of the notary public, and employer or business name of the notary;
- 2) If known, the name of the county in which the notary resides;

- 3) If known and assigned, the notary commission number assigned to the notary;
 - 4) An explanation of the reason for the complaint;
 - 5) A copy of relevant documents related to the matter;
 - 6) Whether the notarial act was an electronic or remote notarial act performed using audio-video communication; and
 - 7) Additional information that the person considers relevant to the complaint and/or notarization.
- b) The complaint may be filed in person, by mail, or by electronic mail (enotary@ilsos.gov).
- c) Upon receipt of the complaint, the Secretary will notify the notary who is the subject of the complaint in writing. The notice shall be sent by regular mail to the address of the notary on file with the Secretary of State. The notice sent to the notary public who is the subject of the complaint will include:
- 1) A statement of the statutory provision which the notary public is alleged to have violated;
 - 2) An explanation of the disciplinary actions that may be taken against the notary public;
 - 3) Instructions for the notary public to respond to the complaint by regular mail or by electronic mail; and
 - 4) A statement that the notary public must respond to the complaint within 10 days after receiving the notice.
- d) If, after receiving the response from the notary, the Secretary of State determines that further action is not warranted, the Secretary will notify the notary public of that decision.
- e) Either after receiving the response from the notary or if no response is received, the Secretary of State may further investigate the complaint of alleged misconduct against the notary public by considering the totality of the offense, facts, and circumstances of the individual case.

- f) Factors considered. When evaluating an allegation of notarial misconduct to determine if action should be taken, the Secretary may consider a variety of factors, including but not limited to, the following:
- 1) Nature and severity of the act, offense, or crime under consideration;
 - 2) Number and variety of current violations;
 - 3) Evidence pertaining to the requisite honesty, credibility, truthfulness, and integrity of the notary public;
 - 4) Actual or potential harm to the general public, group, individual, or customer;
 - 5) History of complaints received by the Secretary of State;
 - 6) Prior disciplinary record or warning from the Secretary of State; and
 - 7) Any felony or misdemeanor convictions involving fraudulent activity; fraudulent, deceptive, or inequitable business acts;
 - 8) the disbarment or professional discipline of a notary that is also an attorney;
 - 9) the revocation of any financial, real estate or securities licenses; or
 - 10) failure to pay any Illinois tax.
- g) If the Secretary determines that a crime may have been committed, the Secretary will refer the allegations to law enforcement for further investigation or prosecution.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.980 Revocation, Suspension and Reprimand

- a) Revocation. A notary public's commission may be revoked for any of the foregoing acts or omissions:
- 1) The notary public demonstrates the notary public lacks the honesty, integrity, competence, or reliability to act as a notary public; or
 - 2) The notary public fails to maintain a residence in the State of Illinois or to

maintain a place of employment in Illinois;

- b) Suspension. A notary public's commission may be suspended for any actions contrary to the Act, other laws of the State of Illinois, or this Part.
- c) Other remedial actions. The Secretary of State may deliver a written official warning to cease misconduct, misfeasance, or malfeasance to any notary public whose actions are determined to be in violation of this Part, the Act, or other laws of the State of Illinois.
- d) Before suspending or revoking a notary public's commission, the Secretary of State shall inform the notary public of the basis for the suspension or revocation and that the suspension or revocation takes effect on a particular date unless a request for an administrative hearing is filed with the Secretary of State pursuant to 5 ILCS 312/7-108(j) and Section 176.990 before that date.
- e) Resignation or expiration of a notary public's commission does not terminate or preclude an inquiry into the notary's conduct by the Secretary of State. Whether the finding would have been grounds for revocation will be made a matter of public record.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.990 Appeals

Appeals should be addressed to the Secretary of State Department of Administrative Hearings and comply with Subpart K.

(Source: Added at 46 Ill. Reg. _____, effective _____)

SUBPART K: ADMINISTRATIVE HEARINGS

Section 176.1000 Definitions

"Act" means the Illinois Notary Public Act [5 ILCS 312].

"Contested case" means an adjudicatory proceeding conducted by the Department of Administrative Hearings in which the individual legal rights, duties, or privileges of a party are required by law to be determined by the Secretary of State only after an opportunity for a hearing. [5 ILCS 100/1-30]

"Continue a hearing" means to reschedule a hearing to another date certain. A decision to continue a hearing is a continuance.

"Department of Administrative Hearings" means the Department of Administrative Hearings of the Office of the Secretary of State of Illinois.

"Director" means the Director or Acting Director of the Department of Administrative Hearings.

"Formal Hearing" means a hearing authorized to be held by the Department of Administrative Hearings under the Act or this Part.

"Hearing Officer" means any person designated by the Secretary of State to preside at any hearing conducted pursuant to this Subpart.

"Order of Default" means an Order entered by the Department of Administrative Hearings which denies all relief because a petitioner fails to appear for a hearing at the time, date and place specified in the Notice of Hearing or Notice of a continued hearing date without prior notification to the Department of the petitioner's inability to appear.

"Party" means any person named or admitted as a participant in any hearing conducted pursuant to this Subpart, including the Secretary and the Department of Administrative Hearings.

"Person" includes any individual, corporation, partnership, association, or firm legally capable of either seeking the action of the Office or being the subject of the action.

"Petitioner" is the party who by written request seeks or applies for any relief from the Secretary under the Act or this Part.

"Respondent" means a person against whom a complaint or petition is filed, or who, because of interest in the subject matter of a petition or application or the relief sought in the petition or application, is made a respondent or to whom an order or complaint is directed by the Department of Administrative Hearings.

"Secretary" means the Illinois Secretary of State.

"Withdrawal from a hearing" means to terminate a hearing upon the motion or at the request of the petitioner.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.1005 Right to Counsel

- a) Attorneys Must be Licensed; 711 Students. Any party may appear and be heard through an attorney at law licensed to practice in the State of Illinois, or any law student licensed under Supreme Court Rule 711, in any hearing in any matter involving the exercise or legal skill of knowledge.
- b) Pro Hac Vice. Attorneys admitted to practice in states other than the State of Illinois may appear and be heard in a specific hearing, upon the attorney's verbal representations or written documentation as to the attorney's admittance, by special leave of the Director of Administrative Hearings or a designee, pursuant to an Order pro hac vice, as authorized by Supreme Court Rule 707 and Rule 5.5 of the Illinois Rules of Professional Conduct.
- c) Pro Se. A natural person may appear and represent oneself instead of representation by an attorney.
- d) Corporations, Limited Liability Companies, and Partnerships. A corporation, association, limited liability company or partnership must appear by legal counsel licensed to practice in the State of Illinois or appearing pro hac vice.
- e) The standard of conduct shall be the same as before the Courts of Illinois.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.1010 Appearance of Attorney

An attorney appearing in a representative capacity shall file a written notice of appearance with the Department of Administrative Hearings office where the formal hearing is requested or pending, providing a name, address, electronic mail address, website, facsimile number, telephone number, Supreme Court registration number, and identifying the party represented.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.1020 Special Appearance

Before filing any other pleading or motion, a special appearance may be made either in person or by an attorney for the limited purpose of objecting to jurisdiction. Every appearance not expressly designated a special appearance shall be considered to be a general appearance. If the reasons for objecting to jurisdiction are not apparent from the papers on file in the proceeding, the special appearance shall be supported by affidavit setting forth the reasons. In ruling upon any objection at any hearing, the hearing officer may consider all matters apparent from the papers on file, affidavits submitted by any party, and any other evidence offered upon disputed issues of fact. No determination of any issue of fact in connection with the objection is a

determination of the merits of the case or any aspect thereof. A ruling adverse to the movant does not preclude the making of any motion or defense which might otherwise have been made. If the hearing officer sustains the objection, an appropriate ruling shall be entered on the record. Error in ruling against the objection is not waived by the objector's taking part in further proceedings in this matter.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.1030 Substitution of Parties

A hearing officer shall, upon motion, rule on a request for the substitution of parties in cases in which a party has died, resigned, been moved, or otherwise succeeded to the interest of a previously named party.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.1040 Commencement of Actions; Notice of Hearing

a) Petition; Notice of Hearing. A contested case is begun when the Office of the Secretary, upon either the written request of the petitioner or its own initiative, serves a Notice of Hearing upon the respondent. "Written request" means a petition via facsimile, electronic transmission, or regular mail. The Notice of Hearing must be sent by electronic transmission, if the petitioner agrees to receive the Notice of Hearing and Decision or Order via electronic transmission.

b) Filing Fee

1) A petition for a hearing will not be accepted for filing unless it is accompanied by a filing fee of \$50. This filing fee must be submitted in the form of a money order, check, or credit charge (with pre-approved card), made payable to the Secretary of State.

2) This filing fee will not be refunded to the party requesting a hearing if the hearing proceeds, the party submits multiple petitions for a hearing to different hearing locations simultaneously, the party withdraws from the hearing or an order of default is entered. The party will be required to submit another filing fee before another hearing will be scheduled.

3) When a hearing is continued, the party requesting the hearing will not be required to submit another filing fee.

4) When the party requesting a hearing withdraws or defaults, the party will be required to submit another filing fee before another hearing will be

scheduled.

c) The Notice of Hearing shall include:

- 1) The names and addresses of all known parties, including the department initiating the hearing;
- 2) Whether the hearing is at the request of the petitioner or a department;
- 3) The time, date and place of hearing. The Department of Administrative Hearings will try to accommodate a party's request regarding the location of a hearing, but reserves the discretion to schedule a hearing at a site that is mutually convenient for all parties involved, including witnesses, and subject to the constraints imposed by budgetary and personnel considerations;
- 4) A short and concise statement of facts (as distinguished from conclusions of law or a mere recitation in the words of the statute):
 - A) the alleged act or acts done by each petitioner or, when appropriate, the respondent;
 - B) either the time, date, and place each such act was done or a short and concise statement of the matters asserted;
 - C) the rule, statute, or constitutional provision, if any, alleged to have been violated or otherwise involved in the proceeding; and
 - D) the relief sought by the petitioning party;
- 5) A statement to each party that:
 - A) each party may be represented by legal counsel and may present evidence, cross-examine witnesses, and otherwise participate in the hearing;
 - B) failure to appear shall constitute a default, unless a party has, upon due notice to other parties, moved for and obtained a continuance from the hearing officer; and
 - C) delivery of notice to the designated representative of a party constitutes service upon that party.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.1050 Motions

- a) Form of Motions. All motions must be made in writing and shall set forth the relief or order sought and must be filed with the Department of Administrative Hearings at the earliest time to be considered by the hearing officer. Motions may be hand delivered or sent by regular mail, courier, or facsimile transmission. Motions must be sent to the hearing location designated in the notice of hearing and are considered received on the date that they are file-stamped by Department of Administrative Hearings personnel. Motions based on matter that does not appear on the record must be supported by affidavit. Motions may be presented by a party to obtain appropriate relief, such as dismissing the proceedings, adding necessary parties, or extending time to comply with an order.
- b) Motions to Correct or Reconsider. The Department will not consider motions to correct a material misstatement of fact or to reconsider a decision made or order entered in a formal hearing. The proper avenue for relief is to file a complaint under the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.1060 Form of Papers – Original Documents Required

- a) Form of Papers
 - 1) All papers filed in any proceeding must:
 - A) be clearly written and typewritten, shall contain a caption showing the title of the proceeding with a case number;
 - B) be signed or verified by the party filing the papers or that party's authorized representative or attorney; and
 - C) contain the party's address, telephone number, website and electronic mail address, if available.
 - 2) An original and one copy shall be filed by each party, except as provided in subsection (b).
- b) Original Documents Required. If a document submitted pursuant to this Part has not been previously submitted to the Department of Administrative Hearings, only the original document will be accepted or admitted into evidence. "Original

document" means bearing the original signature of the petitioner or author of the document, as applicable. Documents that are composed or created solely to submit to the Secretary of State at a formal hearing must be submitted as originals.

c) Documents Sent by Facsimile or Electronic Transmission. Documents that must be submitted as an original but are instead sent by facsimile or electronic transmission will be accepted at the time of the hearing. However, the originals of the documents must be submitted at a later date. The hearing officer will grant leave to submit the originals within not more than 14 calendar days after the hearing. The hearing officer will determine the specific number of days within which the petitioner is allowed to submit the original, based upon the circumstances of each individual case.

d) The petitioner's failure to submit an original document as required in this Section will not in and of itself constitute, under any circumstance, the sole basis for denying relief.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.1070 Conduct of Formal Hearings

a) Open to Public. All hearings conducted in any proceeding will be open to the public.

b) Formal Hearings Generally; Parties to a Hearing; Disqualification of Hearing Officer. Every hearing will be presided over by a hearing officer duly appointed by the Secretary. The hearing officer will have authority to conduct the hearing, to rule on all motions, to administer oaths, to subpoena witnesses or documents at the request of any party, to examine witnesses, and to rule upon the admissibility of testimony and evidence. The Secretary may also appoint a representative to appear and participate in the hearing on the Secretary's behalf. Before evidence is taken, the petitioner or respondent may request disqualification of the hearing officer by making a motion for disqualification on the record, stating the specific grounds upon which it is alleged that the hearing officer cannot provide a fair and impartial hearing. The hearing officer will rule upon the motion. If the motion is denied, the hearing will proceed, or the petitioner may withdraw from the hearing. If the motion is granted, the case will be transferred to another hearing officer for a hearing on the same day if possible. If it is not possible to schedule the Secretary will assign another hearing officer, who will schedule a new hearing date.

c) Depositions and Interrogatories

- 1) Upon order of the hearing officer, for good cause shown, and upon reasonable notice to other parties, any party, including the Department, may take at its own expense the testimony of any party or person by deposition upon oral examination or written questions for discovery or for use as evidence in the action in a contested case (for example, when the witness is not available because of distance, time, cost to the party using the testimony, sickness, infirmity, imprisonment, the witness being out of state or similar factors). The notice, order or stipulation to take a deposition must specify whether the deposition is to be a discovery deposition or an evidence deposition. In the absence of specification, a deposition is a discovery deposition only. If both discovery and evidence depositions are desired of the same witness, they must be taken separately, unless the parties stipulate otherwise or the hearing officer orders otherwise upon notice and motion. The deposition must be taken in the manner provided by law for discovery and evidence depositions in civil actions in the Circuit Courts of Illinois.
- 2) Any party may direct written interrogatories to any other party. Interrogatories must be restricted to the subject matter of the case, avoid undue detail, and avoid the imposition of any unnecessary burden or expense on the answering party. Sworn answers or objections to interrogatories directed to the Index Department or the Secretary of State may be made by a designated agent, including the Department's counsel, who shall furnish such information as is available. Written interrogatories shall be served on the opposing party not later than 15 business days before the hearing. Objections to questions or refusals to answer will be heard on motion at the hearing before the hearing officer, who will rule on the objection or refusal. Answers shall be sworn. If an answer to an interrogatory can be obtained from documents in the possession or control of the party on whom the interrogatories are served, it is a sufficient answer to specify the documents and make them available to the inquiring party to inspect and copy at the asking party's expense. Subsection (c)(2) does not apply to objections or refusals to answer interrogatories.
- d) Rules of Evidence. The technical rules of evidence shall not apply. Any relevant evidence may be admitted if it is the sort of evidence relied upon by reasonably prudent people in the conduct of their affairs. The existence of any common law or statutory exclusionary rule that might make improper the admission of the evidence over objections in civil or criminal actions shall not be a bar to the admissibility of otherwise relevant evidence. The rules of privilege shall be followed to the same extent that they are now or may be recognized in later civil actions. Irrelevant, immaterial or unduly repetitious evidence may be excluded

upon objection. Objections to evidentiary offers may be made and will be noted in the record and ruled upon by the hearing officer. Any party may make an offer of proof following an adverse evidentiary ruling. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form. Subject to the evidentiary requirements of this subsection, a party may conduct cross-examination required for a full and fair disclosure of the facts.

e) List of Witnesses; Bill of Particulars. Upon written request made at least 10 business days before the hearing, a party shall furnish to the other parties a list of the names and addresses of prospective witnesses or written answers to a written demand for a bill of particulars.

f) Inspection of Documents; Interview of Parties. Any party or its representative shall have the right, upon the filing of a written motion with proper proof of service, to inspect any relevant document in the possession of or under the control of any other party before the formal hearing. The inspection of documents shall occur at the location the formal hearing is scheduled. Any party may file a written motion seeking to interview parties or persons having knowledge of relevant facts, subject to any statutory or constitutional privileges. Upon order of the hearing officer, for good cause shown, and upon reasonable notice to other parties, any party, including the Department of Administrative Hearings, may interview at its own expense parties or persons having knowledge of relevant facts. Interviews of persons and inspection of documents shall be at times and places reasonable for the persons and for the custodian of the document.

g) Admissions. A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request or for the admission of genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished.

h) Right to Call Witnesses, Cross-Examine, Subpoena Documents and Introduce Exhibits. Each party shall have the right to request the subpoena of witnesses, to call and examine witnesses, to introduce exhibits, and to cross-examine witnesses on any matter relevant to the issues even if that matter was not covered in the direct examination. Applications to the hearing officer assigned to the case for subpoenas duces tecum must specify the books, papers and documents desired to be produced.

i) Pre-hearing Conference. At the request of any party or upon the hearing officer's own motion, the hearing officer may call a pre-hearing conference. At the conference, the parties or their representatives shall appear as the hearing officer

directs. Matters that may be considered at a pre-hearing conference include, but are not limited to:

- 1) The simplification of the issues;
- 2) Amendments to the grounds for action;
- 3) The possibility of obtaining admissions, stipulations of fact, and of documents that will avoid unnecessary proof;
- 4) The limitation of the number of expert witnesses;
- 5) Any other matters that may aid in the disposition of the contested case.

j) Order from Pre-hearing Conference. At the conclusion of a pre-hearing conference, the hearing officer will enter an order reciting any action taken, any agreements made by the parties as to any of the matters considered, and the issues to be heard.

k) Oath. Testimony shall be taken only on oath or affirmation.

l) Stipulations. Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing.

m) Official Notice. The hearing officer may take official notice of past hearings and of any matter of which the Circuit Courts of Illinois may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts with the Department's specialized knowledge. Parties will be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including staff memoranda and data, and they will be given an opportunity to contest the material so noticed. The Department's and the hearing officer's experience, technical competence and specialized knowledge may be used in the evaluation of the evidence.

n) Rights of Parties. Each party shall have the right to rebut the evidence against that party; to appear in person; and to be represented by counsel. If a party does not testify in its own behalf, it may be called by the Secretary of State's representative and examined as if under cross-examination.

o) Opening and Closing Statements. Upon the opening of the hearing, the hearing officer will allow the parties to make opening statements. Opening statements may not be made at any other time, except at the discretion of the hearing officer. Upon the close of the hearing each party may make a closing statement orally, by

written brief, or both, at the discretion of the hearing officer, incorporating arguments of fact and law. A written brief may be required when the hearing officer determines that the facts and issues are complicated and the parties must plead their cases in writing for the record.

p) Exhibits. All exhibits must be clearly marked for identification and admitted into evidence by the hearing officer.

q) Cross-examination of Witnesses. In the hearing of any case, any party may call any other party or its agent as an adverse witness and examine that witness as if under cross-examination. The adverse party calling for the examination is not bound by the testimony of the adverse witness, but may rebut the testimony given and impeach the witness by proof of prior inconsistent statements. If the hearing officer determines that a witness is hostile or unwilling, the witness may be examined by the party calling the witness as if under cross-examination. The party calling an occurrence witness may, upon showing that the party called the witness in good faith but is surprised by the testimony, impeach the witness by proof of prior inconsistent statements.

r) Burden of Proof. The general burden of proof is upon the petitioner for any relief in a hearing. The standard of proof is the preponderance of the evidence.

s) Interpreters; Deaf and Hard of Hearing. The Secretary will provide, upon prior written request, an interpreter for parties who are deaf or hard of hearing who wish to testify; providing a language interpreter, however, is the responsibility of the petitioner or respondent.

t) Report of Proceedings; Obtaining a Copy of Record

1) The Department of Administrative Hearings shall, at its expense, have present at each formal hearing an electronic or digital recording device or a qualified court reporter to make a permanent and complete report of the proceedings, including evidence admitted or tendered and not admitted, testimony, offer of proof, objections, remarks of the hearing officer and of the parties and their representatives, all rules of the hearing officer.

2) Upon written request and at the party's own expense, any party may obtain a copy of the report of proceedings from the court reporter or copied from the electronic device by the Department of Administrative Hearings. The party must pay \$25 to the Secretary of State, in advance, to cover the cost of making an electronic or digital copy and mailing.

u) Motions to Continue and Withdraw; Leave to Submit Original Documents

- 1) Motions to Continue by Petitioner or Respondent; Grounds. Hearings before the Department of Administrative Hearings will be continued only pursuant to a motion that complies with Section 176.1050 and is filed on or before the date of the hearing, made over the telephone less than 15 days before or on the date of the hearing, or made in person on the day of the hearing. The movant shall set forth the grounds for the motion, which are limited to unforeseen, unavoidable, or uncontrollable circumstances, such as an Act of God, the recent discovery of new evidence, the sudden illness or death of the movant, a member of the movant's immediate family, or of the movant's legal counsel, or if the movant can demonstrate some other real and compelling need for additional time. A Motion to Continue may be supported by evidence that tends to prove the grounds alleged, including sworn testimony taken at a motion hearing on the day of the hearing. The inability to obtain transportation to the hearing site or a party's failure or inability to obtain the documentation required to fulfill the minimum requirements to be issued relief are not circumstances that justify continuing a hearing.
- 2) Continued to a Date Certain. A formal hearing will not be continued "generally". A continuance, if granted, will state a date certain upon which the hearing shall reconvene. If the petitioner is not prepared to go forward after the first continuance, a request to withdraw must be submitted or an Order of Default shall be entered.
 - A) Written Motions to Continue filed at least 15 days before the date of the hearing specified in the Notice of Hearing or notice of a continued hearing date will be given priority in rescheduling over motions filed or made less than 15 days before the date of the hearing or made on the date of the hearing. The Department will rule upon Motions to Continue filed at least 15 days prior to the date of the hearing and, when possible, notify the movant of its ruling prior to the date of the hearing. If the motion is denied, the movant must appear at and proceed with the hearing or withdraw from the hearing or an Order of Default shall be entered.
 - B) Motions to Continue made by telephone less than 15 days before the date of the hearing specified in the Notice of Hearing or notice of a continued hearing date must also be filed in writing and received or postmarked no more than 5 days after the date of the hearing to be considered. A Motion to Continue made in writing less than 15 days before the date of the hearing specified in the Notice of Hearing or notice of a continued hearing date must be

received and postmarked no more than 5 days after the date of the hearing. The Department of Administrative Hearings cannot assure the movant that it will rule upon these motions before the date of the hearing.

C) It is the responsibility of the movant to inform the Department of Administrative Hearings, in the Motion to Continue or during a telephone conversation, what course of action the movant wishes to take if the motion is denied (either to appear and proceed with the hearing, withdraw, or default). In all cases, it is also the responsibility of a movant who has not been notified of the Department's ruling to contact the Department of Administrative Hearings on or before the day of the hearing to determine whether the hearing officer has ruled on the motion. A movant's failure to appear after a Motion to Continue is denied will result in the entry of an Order of Default.

3) Motions Made by the Secretary or the Department of Index. The Department may also make or file a Motion to Continue for unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God, the recent discovery of new evidence, the sudden illness or death of the hearing officer, the attorney representing the Secretary of State, a witness, or a member of the immediate family of one of these entities, or if the Department can demonstrate some other real and compelling need for additional time.

4) Motions to Withdraw. Except as provided in this subsection (u)(4), a petitioner may withdraw from a hearing for any reason. A Motion to Withdraw made in person or by telephone on or before the day of the hearing must be followed up with a written motion that is received no more than 10 days after the date of the hearing. A Motion to Withdraw made in writing must be received or postmarked not more than 10 days after the date of the hearing. Failure to do so will result in an Order of Default. Once a petitioner is placed under oath, a request to withdraw from a hearing that, in the hearing officer's judgment, is based upon surprise evidence presented or adverse evidence shall not be granted. Upon withdrawal, the requested relief will not be considered and the petition is dismissed. Should the petitioner request another hearing, it must be done in writing and it will be treated as any other request for hearing.

5) Motions for Leave to Submit Original Document. As provided in this subsection (u), the petitioner may request leave to submit original

documents if the petitioner proceeds with the hearing, offering copies of documents when originals are required. The hearing shall be completed and the petitioner shall be granted leave to submit the original documents as provided in this subsection (u).

- 6) Attorney's Appearance on File. A Motion to Continue or Withdraw made by any attorney on behalf of a petitioner/respondent will not be considered unless the attorney has filed a written notice of appearance as provided in Section 176.1010.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.1080 Orders, Notifications, and Time Limits on Obtaining Relief

- a) The Department shall prepare a written order for all final determinations, which shall include the Findings of Fact, Conclusions of Law, Recommendations of the hearing officer, and the Order of the Secretary.
- b) The hearing officer shall prepare the Findings of Fact, Conclusions of Law, and Recommendations to the Secretary. The Findings of Fact and Conclusions of Law must be stated separately.
- c) The order of the Secretary shall be the decision of the Office of the Secretary upon the application for relief.
- d) The Department of Administrative Hearings shall notify all parties or their agents personally, by facsimile, regular mail or electronic transmission, of the Findings of Fact, Conclusions of Law, Recommendations, and the Order. If it is the Order of the Secretary to grant petitioner relief, then the Department of Administrative Hearings will also provide instructions on what steps the petitioner must take to obtain the relief. The failure to follow and complete these instructions will result in the denial of relief.
- e) An Order of Default shall be entered against the petitioner or respondent, who fails to appear for a hearing at the scheduled time and has failed to request or been granted a continuance in accordance with subsection 176.1070(u).
- f) Orders resulting from formal hearings are final administrative orders within the meaning of the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.1090 Record of Hearings

a) The record of the hearing in a contested case shall include:

- 1) All pleadings (including all pre-hearing and post-hearing notices and responses thereto, admissions, stipulations of facts, motions, and rulings thereon);
- 2) All documentary evidence;
- 3) A statement of matters officially noticed;
- 4) A transcript of the proceedings;
- 5) The findings of fact, conclusions of law, and recommendations of the hearing officer;
- 6) The Order of the Secretary of State, which shall constitute a final administrative decision within the provisions of the Illinois Administrative Review Law [735 ILCS 5/Art. III].

b) The record will be certified by the hearing officer or the Director of Administrative Hearings upon any complaint for administrative review. The Department will prepare an index of the record, with each page of the record numbered in sequence.

(Source: Added at 46 Ill. Reg. _____, effective _____)

Section 176.1095 Invalidity

If any portion of this Subpart shall be held by a court of competent jurisdiction to be invalid, that holding shall not affect the remaining portions.

(Source: Added at 46 Ill. Reg. _____, effective _____)

NONRESIDENT NOTARY PUBLIC AFFIDAVIT OF APPLICANT

STATE OF
COUNTY OF

<u>I, (name), being first duly sworn, state upon personal knowledge and under penalty of perjury as follows:</u>			
<u>1. The address of my residence is:</u>			
<u>2. I am employed by:</u>			
<u>3. The address of my employer is:</u>			
<u>4. The telephone number at my place of employment is:</u>			
<u>5. The email address at my place of employment is:</u>			
<u>6. The web address at my place of employment is:</u>			
<u>Dated this</u>	<u>day of</u>	<u>, 20</u>	
<u>Signature of Applicant:</u>			
<u>Signed and sworn before me on</u>	<u>day of</u>	<u>, 20</u>	<u>By</u>
<u>(Printed Name of Applicant)</u>			
<u>(seal)</u>			
<u>Signature of Notary Public</u>			

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Section 176.ILLUSTRATION B: Study Course Provider Surety Bond Certification Form

Known All Persons by These Present, That We, _____, hereinafter referred to as Principal and _____, a corporation organized and existing to do business in the State of Illinois, for the use and benefit of all persons who may be damaged by breach of this bond, as Obligees, in the penal sum of \$50,000, lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our executors, administrators, successors and assigns, firmly by these presents. The condition of this obligation is such that the principal has made application to the Illinois Secretary of State for certification for the purpose of exercising the vocation of a notary course of study and examination provider. If the Principal faithfully complies with the Illinois Notary Act and all rules and regulations that have been or may hereafter be in force concerning the certification and shall save and keep harmless the Obligees from all loss or damage that may be sustained as a result of the issuance of the license or permit to the Principal, this obligation shall be void; otherwise, this obligation shall remain in full force and effect. The bond will expire but may be continued by renewal certificate signed by the Principal and Surety. The Surety may at any time terminate its liability by giving 30 days written notice to the Department of Index, 111 East Monroe, Springfield, Illinois 62756, and the Surety shall not be liable for any default after that 30-day notice period, except for defaults occurring prior thereto.

Signed, Sealed and Dated this _____ day of _____, 20_____.
Principal _____
Surety _____
By _____ (Attorney-in-fact)

(Source: Added at 46 Ill. Reg. _____, effective _____)